

Mr. O'Donnell

STENOGRAPHIC RECORD

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY

Docket A-297, 1948

IN THE MATTER OF

R. GARLAND CHISSELL,
et al.,

vs.

THE MAYOR AND CITY COUNCIL
OF BALTIMORE, a Municipal
Corporation

Before: MASON, J.

December 21, 1948.

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CLARENCE P. GOETZ
Official Court Reporter

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FIRST DAY'S PROCEEDINGS

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THE MAYOR AND CITY COUNCIL
OF BALTIMORE, a Municipal
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BEFORE: MASON, J.

December 21, 1948.

The above entitled cause came on for hearing
before his Honor, Judge E. Paul Mason, on Tuesday, December
21, 1948, at 10:20 A. M.

APPEARANCES.

Messrs. Donald G. Murray, and Charles H.
Houston, Solicitors for the Plaintiffs.

Messrs. Thomas N. Biddison, and Hamilton
O'Dunne, Solicitors for the Defendant.

Opening statement made on behalf of the

Plaintiffs by Mr. Houston.

Opening statement made on behalf of the
Defendant by Mr. O'Dunne.

STIPULATIONS.

MR. HOUSTON: It is stipulated for the record that the Plaintiffs do not challenge the general authority of the Mayor and City Council of Baltimore as a corporation to control traffic in the streets of the City of Baltimore, consistent with the protection of the total interests of the city. Is there anything further, Mr. O'Dunne?

MR. O'DUNNE: No, that is all.

MR. HOUSTON: Mr. O'Dunne has agreed that it won't be necessary to call the plaintiffs to prove ownership of the property, because we would like to start it just as quickly as possible chronologically and start back when the scheme developed and show how it developed and bring it on down. It may be necessary to interrupt out of order and put on Mr. Edelman, because I understand Mr. Edelman is catching a train.

THE COURT: You may take any witnesses you wish out of order.

Thereupon - - -

GEORGE A. CARTER,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Your official position with the city?

A Deputy Director of Public Works.

Q You have been Deputy Director for how long?

A Since July of 1947, when the new charter went into effect.

Q Prior to that time you were what?

A Deputy Chief Engineer.

Q You were Deputy Chief Engineer for how long?

A I think October, 1943.

Q Who was the Chief Engineer at that time?

A Nathan L. Smith.

Q Were you the second in the office under Mr. Smith?

A That is right.

Q During that time did your office make any recommendations concerning the designation of Druid Hill avenue and McCulloh street prospectively as one-way streets?

A Mr. Smith prepared a report entitled "Analysis of Traffic Conditions And Present And Post-War Highway Requirements." That was dated in May of 1945, I believe. In that report he had recommended certain one-way street operations, McCulloh and Druid Hill avenue being one of them.

Q Do you have that report with you, sir?

A I certainly do. (Witness produced document and exhibited same to counsel.)

Q Will you turn to the section of the report in which the recommendation is made?

A On page 21.

Q How far does the report deal with Druid Hill avenue and McCulloh street?

A I think there is another reference there a few pages back.

MR. O'DUNNE: I think on page 29.

THE WITNESS: Yes, on page 29.

MR. HOUSTON: May I ask that this be marked as Plaintiffs' No. 1.

MR. O'DUNNE: The whole book?

MR. HOUSTON: Yes, the whole book, and I will read certain sections.

(Document referred to offered and received in evidence as Plaintiffs' Exhibit 1.)

MR. HOUSTON: If the Court please, I am reading now from page 21:

"The Commission on City Plan is making similar studies to determine the feasibility of one-way street development to the northwest. This problem is more difficult, due to the operation of important car lines on Pennsylvania avenue, Madison avenue and Druid Hill avenue. There are now street car routes traversing these three streets, three streets, all of which connect the general vicinity of the Park Terminal with the western part of the Central business district. If these lines can be combined on Pennsylvania avenue and Madison avenue, Druid Hill avenue may be used in combination with McCulloh street for alternate one-way traffic.

"McCulloh street is now designated as a through highway, but at its northern terminus it is quite inaccessible. By carrying both McCulloh street and Druid Hill avenue across the corner of Druid Hill Park into Auchentoroly Terrace and widening that thoroughfare, excellent connection can be made with Gwynns Falls Parkway, Liberty Heights avenue and Reisterstown Road. If, by reason of the operation of these transit lines out of the Park Terminal, Druid Hill avenue could not be freed of street car tracks, it would then be desirable to use Madison avenue for this purpose, transferring the lines operating thereon to Druid Hill avenue and directing traffic northbound upon it, and southbound on McCulloh street."

MR. HOUSTON: Then on page 29:

"Ultimately an expressway from the vicinity of Franklin and Pearl streets to the southwest corner of Druid Hill Park or to the general vicinity of Fulton avenue and Pennsylvania avenue, thence continuing northwest and connecting with Gwynns Falls Parkway, Liberty Heights avenue, Reisterstown Road, Wabash avenue, Park Heights avenue, and Greenspring avenue will be required.

Two tentative locations have been considered for this expressway; one to the west of Pennsylvania avenue and the other to the east. The latter would be more direct, but would involve the use of the western edge of Druid Hill Park. The former would be longer and would require the acquisition of a greater amount of private property. We recommend the prompt study of both locations to the end that the most feasible route may be selected and control of the development of property affected by it undertaken.

"For the immediate future, the development of one-way street traffic should be undertaken, and we reiterate the desirability of removing the car tracks from either Druid Hill avenue or Madison avenue and the use of these thoroughfares in combination with McCulloh street as the most desirable."

Q What was done with this report?

A It was given wide publicity, submitted to the Mayor, approved by the Mayor, and submitted to the Commission on Plan and approved by that Commission. In addition, negotiations were started with the Transit Company to realize some of the recommendations in the reports.

Q Specifically did Mr. Smith ask the Transit Company for the following changes: The removal of tracks from Druid Hill avenue so that Druid Hill avenue and McCulloh streets could be made one-way streets?

A That is right.

Q That was approximately when?

A I think November, 1947. The negotiations culminated in the publishing of The Riders Digest of the Transit Company.

Q Do you mean 1947 or 1945?

A 1945. I beg your pardon.

Q Do you have the report that the Baltimore Transit Company made to the Mayor and members of the City Council? Let me ask you this: Is the report in The Riders Digest a verbatim report?

A I would not know, sir.

Q Did the Transit Company make a report to the Mayor and City Council?

A That I don't know either.

Q Did it publish a reply? Did it publish copies of its report or what purported to be its report to the

Mayor and City Council in its Riders Digest of November, 1945?

A Just by reading this I assume so. I have no evidence to that effect.

Q Did there come to your department knowledge that a report had been made by The Baltimore Transit Company concerning the request of Mr. Smith to designate -- to remove the tracks from Druid Hill avenue, so that Druid Hill avenue and McCulloh street could be made one-way streets?

A I assume so; yes.

Q As Deputy Chief Engineer at that time, didn't you know, as a matter of fact, that the knowledge did come to your department that The Transit Company had made such a report?

A The report was not submitted to me. We investigated the reroutings as suggested in the Riders Digest. The Riders Digest came to me, not the official report of the Transit Company to the Mayor and City Council.

Q But there did come to your department suggested reroutings which the Transit Company proposed?

A That is right.

Q And the justifications for those reroutings also came to your office?

A That is true.

Q On the basis of that, did there come a time when a cut-off was made near Auchentoroly Terrace in Druid Hill Park?

A Do you mean the paving of a road around the western perimeter of Druid Hill Park, is that what you mean?

Q All right, yes.

A Yes.

THE COURT: You do not mean to cut off the street car line.

MR. HOUSTON: Oh, no. My question was not clear.

Q Following the report of the Transit Company, acting upon the request of Mr. Smith, for the removal of car tracks from Druid Hill avenue, so that Druid Hill avenue and McCulloh street could be made one way streets, did thereafter come a time when a road was cut through Druid Hill Park near Auchentoroly Terrace?

A That is right, yes, sir. There is an official

letter in the file submitting such a proposal to the Plan Commission.

Q Will you get us that letter and give us the date?

A That letter was August 9th, 1946.

MR. HOUSTON: I would like to introduce this as Exhibit No. 2.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 2.)

Q Prior to the proposed dual highway that is mentioned in the letter of August 9th, 1946, from the Chief Engineer to Mr. Maxwell, as director of the Parks, what were the outlets from Druid Hill Park south coming to the center of the city?

A The outlets from Druid Hill Park?

Q Yes.

A Druid Hill avenue, I think Auchentoroly Terrace or east of Auchentoroly Terrace, another one at Druid Hill avenue, another at Madison, and another at Eutaw.

Q Which was the main one?

A I would say Eutaw.

THE COURT: The one at Druid Hill avenue was an

inlet, wasn't it?

THE WITNESS: I believe it was, Judge, one way in.

Q Was there a reply by Mr. Maxwell to this letter from the Chief Engineer of August 9th, 1946?

A The reply took the form of suggestions in so far as paths, and whatnot, and the final approval was in the form of discussing the only letter we have from Maxwell.

Q Wasn't there a reply from Mr. Maxwell concerning certain solicitude for the trees in Druid Hill Park?

A No, not that I know of, sir.

Q Did the Chief Engineer's office, in making that recommendation, consider the damage to the trees?

A Very definitely. The trees were located by a survey party and a road through the park, around the perimeter of the park, was suggested to do as little damage as possible.

Q When you get out of the park, down Druid Hill avenue, what was the nature of that neighborhood?

A Nature of the neighborhood?

Q What was the nature of the territory there? The streets through which Druid Hill avenue passed, the proposed one-way street.

MR. O'DUNNE: Is that going south?

MR. HOUSTON: Yes. My difficulty is that I don't know the city directions.

A I would say the character of that development was the same as any other in town, residential and some commercial scattered along the residential.

Q What about McCulloh street?

A About the same I would say, maybe a little more residential than Druid Hill avenue.

Q Did your committee also take into consideration pedestrian traffic in Druid Hill avenue and McCulloh street?

A I think you are asking me questions that are not part of the Department of Public Works.

Q I am talking about the Chief Engineer's office.

A That is the Department of Public Works. The Chief Engineer is the head of the Department of Public Works, or was the head of the Department of Public Works.

The Chief Engineer of the Bureau under the Charter change was made head of the department. So far as the pedestrian traffic is concerned and so far as vehicular traffic is concerned, that is a function of the Traffic Division of the Police Department, and any studies made there were made by the Police Department.

Q Do I understand, then, the only thing your department considered was the question of damage to the trees?

A No, damage to any other property. We did not take into consideration traffic.

Q Or safety?

A That is the work of the Police Department.

Q Just answer my question. Did the Chief Engineer's office, in connection with the proposed designation of these streets as one-way streets, in connection with this dual highway through Druid Hill Park, take into consideration any other factors except the damage to the trees in Druid Hill Park?

THE COURT: He answered that, didn't he? I thought he answered that by saying any other property damage. Isn't that right?

THE WITNESS: Yes, sir, I did.

Q If you did not consider traffic, what was your concern about making these one-way streets?

A You asked me a specific question about pedestrian traffic. No, we did not make pedestrian traffic counts. We took into consideration traffic, which is one of the functions of the Department of Public Works in conjunction with the Police Department and Plan Commission, to solve traffic generally, but when it comes to making specific traffic counts, whether pedestrian or vehicular, our department does not do that.

Q I am not asking you about specific traffic counts. Do you consider pedestrian traffic as part of the total traffic?

A Certainly.

Q Did you consider pedestrian traffic as a part of the total picture?

A Yes, sir. When we decided on the plan to make Druid Hill avenue one-way we considered it the same as we considered pedestrian traffic when it was suggested that Calvert and St. Paul streets be made one way, and Mulberry or Franklin.

Q Part of the reason for designation of streets as one-way expresways is to increase the flow of vehicular traffic on the streets, is it not?

A Also to make it safe for pedestrian traffic to cross it.

Q Will you tell us, then, what was the character of the pedestrian traffic, particularly as to school children, crossing Druid Hill avenue and McCulloh street?

A What do you mean by character?

Q What are the hazards?

A I don't understand the question.

Q You have stated that pedestrian traffic was part of the total traffic picture which you considered. Would you also say that the question of school children crossing streets going to and coming back from school was part of the pedestrian traffic picture?

A Yes.

Q Will you, then, tell us what was the condition of the school children, hazards to school children crossing back and forth over Druid Hill avenue and McCulloh street at the time that you proposed, your office proposed the designation of McCulloh street and Druid Hill avenue

as one-way streets?

A I would say it was extremely hazardous with two-way operations on the streets.

Q So that there was an extremely hazardous condition. How many schools were involved in the area?

A I have never counted them.

Q There was no study of the schools and there was never a study of the school children, was there?

MR. O'DUNNE: I am going to object to any further questions along this line on the ground they are not calculated to prove fraud.

THE COURT: I don't know what it will lead to, but I will take it subject to exception and you can move to strike it out afterward.

A The Planning Commission made those particular studies. I don't think, though, the Planning Commission studied the problem of how many schools were along the streets, how many churches along the streets.

Q Did you have that before you when you made the suggestion?

A Yes.

Q Do you have it now?

A No, it is in the records of the Planning Commission, not in the records of the Public Works office.

MR. O'DUNNE: May my objection go to each of these questions?

THE COURT: I will give you a general exception to this line of inquiry.

Q When was the dual highway through Druid Hill Park completed?

THE COURT: Don't you want, while you are on that point, to ask him anything about the results? What part those studies played in the final decision?

MR. HOUSTON: Yes, I will ask him that.

Q When did you receive those studies from the City Planning Commission prior to your proposal of this dual highway and also the designation of McCulloh streets and Druid Hill avenue as one-way express highways?

A If I remember it correctly, it was during the period between the report of Mr. Smith and the actual introduction of the Ordinance into the Council.

Q So that Mr. Smith made his proposal prior to receiving a report of the City Planning Commission?

A Yes.

Q Tell us when the proposed dual highway through Druid Hill Park or the edge of Druid Hill Park was completed?

A In January, 1948.

Q When was this work on it begun?

A The contract for grading was advertised on May 17th, 1947, it was awarded on June 5th, and work started shortly after that.

Q And it was completed in January?

A January, 1948.

Q The whole value of this proposed dual highway was dependent upon the designation of Druid Hill avenue and McCulloh street as one-way streets?

A Yes, sir.

Q So that unless McCulloh street and Druid Hill avenue were designated as one-way streets, the cost and trouble and damage to the city's park, Druid Hill park, for building that dual highway was wasted; is that correct?

A I would not say that, no. I mean it had a value. It could have been used as a branch of a dual highway north of Cloverdale Road.

THE COURT: North of where?

THE WITNESS: North of Cloverdale Road. I believe it is just below the south perimeter of the park.

Q So far as southern outlets are concerned, the immediate purpose was to take care of the traffic at Druid Hill avenue and McCulloh street?

A That is right, but it could still be used. If there was no one-way operation on Druid Hill avenue and McCulloh street the roads through the park could be used as two way highways because they carry the same traffic as Druid Hill and McCulloh do south of the park.

Q But they were constructed for the purpose of taking the traffic off Druid Hill avenue and McCulloh street?

A Yes.

THE COURT: Hasn't that dual highway been blocked off ever since it has been completed?

THE WITNESS: It has been blocked off at Fulton avenue by reason of the traffic coming up. If you made them both two ways and divided them by a center line, we would be all right; but pending the decision of this case we had to block Fulton avenue, with the resultant confusion

of traffic at Fulton avenue, and the new highway.

Q And the funds for that came from the reconversion fund of the street car company, did it not?

A I believe so, yes.

MR. HOUSTON: Your witness.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q Mr. Carter, the Judge just asked a question whether a certain segment of this new improvement has been blocked off. You said yes, it had. Can you tell us why it was blocked off?

A Awaiting the outcome of this particular case. It would be a hazardous thing otherwise. We are carrying the traffic down Auchentoroly terrace southbound, and to put it into effect northbound, it would have been hazardous, and for that reason the traffic has been diverted into McCulloh street.

Q In other words, it has been blocked off to prevent an increase in safety hazards?

A Yes, that is right.

Q You, being in the engineering department of

the city, are familiar with the way a project of this character is eventually placed before the City Council. What is the practice of your department with respect to approval or disapproval of a project of this character in presenting it to the City Council? In other words, do you approve the project first?

A There are two phases to this. The phase involving the road through the park does not require legislative action or action by the City Council. That particular phase is administrative. Funds were available from the Transit Company money. The park, of course, is park property and required the approval first of the Plan Commission, and second, approval of the Board of Park Commissioners before your actual paving or construction of a new highway could get started. When it came to McCulloh street and Druid Hill avenue as a designation of one-way streets by ordinance, the usual procedure on that is to have the Police Department, the Department of Public Works and the Plan Commission collaborate in the ordinance, and the ordinance introduced in the council and followed through from there. The council refers it back to the

Board of Estimates, back to Public Works, and back to the Plan Commission for recommendation, and that same thing is gone through again before the Mayor signs it. So that there are recommendations made by the official agencies before the Ordinance becomes law.

Q Prior to the time the ordinance is submitted to the Council, the various departments of the City examine it?

A Police Department, Department of Public Works, and the Plan Commission.

Q It has been alleged by the complainants in this case that City machinery was secretly put to work on this project. Do you know anything about City machinery secretly put to work on this project?

A I certainly do not. The project, so far as a project was concerned, received wide newspaper publicity. I think I have some or at least one newspaper clipping in the file here.

Q Mr. Carter, I hand you a paper which you have just handed me, and ask you if you can tell the Court what it is?

A It is briefly a map of the western edge of Druid Hill Park, which shows the proposed highway along that perimeter of the park connecting with McCulloh and with Druid Hill avenue and showing existing routes through the park, showing how much more directly the proposed plan is.

Q In the form in which you have this map, where did it originally appear?

A In The Morning Sun of September 30th, 1948.

Q Of Baltimore City?

A Yes.

MR. O'DUNNE: I would like to offer it as defendant's exhibit 1.

(Clipping referred to offered and received in evidence as Defendant's Exhibit 1.)

Q As far as you know, was there any attempt to keep this project secret by any city department?

A None whatsoever. In fact, the day it was brought up to the Plan Commission the press was present and carried a story that very afternoon. Unfortunately, I don't have the clippings.

Q From the time of Mr. Smith's first report in 1945, was there any effort, as far as you know, of any city officials to keep it a secret?

A None that I know of.

Q As far as Druid Hill avenue and McCulloh street are concerned, they carry some traffic now?

A I am hardly a witness qualified to discuss the traffic count on those streets. We have people in court who are more qualified than I, but from personal observation I do know that McCulloh street carries a good deal more traffic than Druid Hill avenue on a two-way basis.

Q Do you know the source of the traffic that now uses McCulloh street and Druid Hill avenue?

A I assume it originates in the northwesterly section of the city, either west of Pennsylvania avenue and north and south of Gwynns Falls Park, right around to the north and even as far around as Green Spring avenue.

THE COURT: A lot of that traffic comes from Mount Royal avenue and finds its way down St. Paul street, doesn't it?

THE WITNESS: A good bit of it, yes, sir.

That was one of the considerations in proposing our scheme for that northwest traffic as well as down Mount Royal avenue, and it crosses at right angles with the extremely heavy north-south flow on Charles, St. Paul and Calvert, and this scheme was designed to remove or alleviate that traffic and make it practical for those people to go directly down town.

THE COURT: The completion of Charles and Cathedral streets as one-way streets would do more than anything else to remove that, wouldn't it?

THE WITNESS: That still would not remove that cross conflict crossing on Mount Royal avenue with your north-south crossing traffic.

THE COURT: What is holding up the Cathedral street project?

THE WITNESS: The Transit Company conversion program. We have practically reached an agreement on their conversion project so that in the early spring we will be able to go ahead with that.

THE COURT: That has been negotiated about two years, hasn't it?

THE WITNESS: That was all included in this Riders Digest, the proposed reconversion of the Transit Company, but the stumbling block occurred on the paving of Kelly avenue in Mount Washington, which amounted to too many dollars for the city to economically appropriate so we had to agree on a scheme to take fixed wheel traffic out of Mount Washington to bus service.

THE COURT: Has that ever been done?

THE WITNESS: We have almost reached a conclusion on that; not quite.

Q I hand you a paper and ask you if you can identify that?

A That is a map prepared by the Bureau of Surveys at our request.

Q Does this show the location of this proposed project?

A It shows the proposed one-way operation on McCulloh street and Druid Hill avenue and also shows the existing highway around the perimeter of the park.

MR. O'DUNNE: I would like to offer this at this time and have it marked Defendant's Exhibit 2.

(Paper referred to offered and received in evidence as Defendant's Exhibit 2.)

Q Were there any other choices of streets that could be used besides the ones selected, that is to say, McCulloh street and Druid Hill avenue?

A The only other choice was Madison avenue as compared to Druid Hill avenue, and that is further to the east than your Druid Hill avenue, and it would have meant, when you connected it with the park, it would disturb more of the park area.

Q From an engineering point of view, would Madison avenue have been as satisfactory as Druid Hill avenue and McCulloh street?

A Not quite for the reason you would have done more damage to the park and at the other end you would have more of a problem at your southern terminus of Druid Hill avenue.

Q More of a traffic congestion at the southern terminus of Madison avenue?

A Yes.

Q Would the use of Madison avenue have had any

effect on the non-automobile traveling public?

A I cannot see where it would have any more effect one way or the other.

Q Would it have been feasible to have used Madison avenue if the street car tracks had continued to use Madison avenue?

A No. You could not possibly operate fixed wheel traffic two ways on a one-way street.

MR. O'DUNNE: Your Honor, in order that the record may be fairly clear, I wonder if it would not be well, with the Court's permission, to mark it north, south east and west.

THE COURT: I think that is a good idea. Suppose you mark it right now.

Q I am pointing to immediately above two sets of lines, two of them diagonal and two of them straight, and immediately underneath is the other end of the map south, then facing the map I have north and on top of the part to the left is west and to the right is east. I will ask you to explain that map to the court.

A Generally the map is to show we are trying to establish one-way streets radiating from the congested busi-

ness center in all directions if the street pattern so permits. Back in 1934, after negotiations with the Transit Company, street car tracks were removed from Franklin street and from Mulberry. That was the first one way street operation from a thoroughfare standpoint, in order to expedite the movement of traffic, and it proved, I think, very successful because traffic has moved a little freer from the western edge of the city into the business district. The final way of solving the traffic problem is by the construction of expressways or freeways with grade crossings. We had \$10,000,000 appropriated for that purpose, but we have not up to the present time been able to get the City Council to construct any freeway construction farther north than the Russell street bridge and Kent street in Westport. So we have to take advantage of what we have and that is two streets that are parallel with approximately the same curb width and designate them as one-way traffic, for one-way traffic. The second set of one-way traffic streets was the instigation of one-way traffic on Galvert and St. Paul streets, which I think has expedited the movement of traffic from the

central business district to the north.

MR. O'DUNNE: Is it clear where those streets are on the map, your Honor?

THE COURT: Yes. I can see they are designated by the heavy lines.

THE WITNESS: The next set we tried was the McCulloh street and Druid Hill avenue set and that ordinance is, of course, under consideration now. If that is passed we will probably consider the one-way operation on Orleans and Jefferson streets east and connecting with the freeway from the southwest on Midgely and Russell sts., as you see designated by the dotted lines on the south end of the map.

Q Actually that is St. Paul and Calvert streets running directly north and south.

A North and south.

Q And the dotted lines next to those ---

A Are more or less for Cathedral and Charles streets one-way designation.

Q And to the left of that, in the northwest quadrant --

A The McCulloh street-Druid Hill.

MR. O'DUNNE: All right, sir.

REDIRECT EXAMINATION.

By Mr. Houston:

Q You said that this dual highway has now been blocked off awaiting the outcome of this case; is that correct?

A Yes.

Q And the reason it is blocked off is because as traffic now moves on Druid Hill avenue and McCulloh street there is such a hazard that it is dangerous to let that traffic flow into those dual highways, isn't it?

A As you have two way traffic on Druid Hill avenue from Cloverdale north to Fulton avenue, it would be hazardous to turn one-way traffic coming down Auchentoroly Terrace to conflict head on at that point.

Q It is then true, isn't it, unless these one-way streets are designated as one-way streets, that the dual highway is useless?

A No, because you could make two way operation on the street above.

Q What street would that be?

A Auchentoroly Terrace.

Q How would that carry traffic?

A It would carry northbound the same as Druid Hill avenue now carries it.

Q Why is it you have not now designated Auchenterol Terrace as a two-way street and given the city the benefit of this dual highway at the present time?

MR. O'DUNNE: That is a conclusion.

MR. HOUSTON: I asked him why.

THE COURT: I will overrule your objection. I think they are entitled to know that. As a matter of fact, I wondered myself why it has been blocked off so long if there is any way it can be used in a practical manner.

A From an expense standpoint, it would mean revising all the traffic signals along the line, and if we had one way operation it would mean changing the traffic signals back. Traffic is moving right now without any hazard, it moves every morning and it moves every evening, until this case is decided.

Q But it is moving now with the highway blocked, isn't it?

A Yes, but you still have not overcome the objections or overcome the thing we designed this thing

for, to eliminate the conflict between east-west traffic on Mount Royal avenue with the conflict of north-south traffic.

Q Then the whole conception of this dual highway was that Druid Hill avenue and McCulloh streets would be one-way expressways?

A Not expresways, one-way streets; not expressways.

Q Was there a hearing on this matter before the Police and Jail Committee of the City Council on February 17th and at which you testified?

MR. O'DUNNE: I object as improper redirect.

THE COURT: I think it is not improper redirect. I think Mr. Houston should confine himself to whatever the cross-examination was.

MR. HOUSTON: All right, I will be very happy to.

Q You testified that Madison avenue would not be as satisfactory as Druid Hill avenue for the reason that there would be more damage to the park?

A That is one reason.

Q What would it do so far as alleviating hazards

to the children crossing the streets on the way to and from school?

A None that I know of.

Q Well, where are the schools located in that area?

A They are on the map.

Q Are they east or west of Madison avenue?

A Most of them are west of Madison avenue.

Q So that locating a highway on Madison avenue would alleviate at least one of the one-way streets that the children would have to cross; isn't that correct?

A No, sir, because there are children living on the other side, so that they would still have to go across the street.

Q Did you inquire or did you have the benefit of any study which showed ---

A The Planning Commission studied all of it.

Q Just a moment. Did you inquire or have the benefit of any study showing the distribution of these children's homes and the routes they had to take to school?

A No.

Q As a matter of fact, you did not care what became of the children, did you, in designating these streets?

A We certainly would not have investigated ---

Q Can you answer that yes or no before you make your explanation?

A Yes, we took it into consideration for the reason we located the schools along with the number of students at each school, in that particular area.

Q How many schools are in that area?

A Four of them, I think.

Q When did you learn there were four schools in that area?

A From the information of the Planning Commission.

Q When?

A I wouldn't have an idea.

Q As a matter of fact, in 1947, February, 1947, you were of the opinion that there were only two schools in that area, weren't you?

A Abutting the street, yes.

Q And you made that statement?

A Abutting the street.

Q Didn't you also testify that regardless of the children you had to get this traffic down town?

A That is true, yes.

Q And you testified to that at the hearing?

A That's right, yes.

Q What information did you have at the time that you testified and made the statement that regardless of the children you had to get the traffic down town, what information did you have or any other city department concerning it?

A The Planning Commission study.

Q What was the date of that study?

A I haven't the slightest idea. It was prior to our recommending an ordinance.

Q You testified about getting the traffic down town, that was the whole purpose of getting this one-way street system is to take traffic off, not encourage traffic, but traffic from one extreme of the city, to bring it down to the time of the study, and vice versa, to take it out?

(question objected to.)

A That is the purpose of every one-way street we have.

MR. O'DUNNE: I would like to object to this on the ground it would be more properly direct examination.

THE COURT: I think that is true. I will sustain the objection.

Q And it was contemplated that there would be further restrictions upon the parking, the use of the neighborhood residents in the parking of their cars and the use of the street?

(Question objected to.)

THE COURT: I think that is the same situation, Mr. Houston.

MR. HOUSTON: Your Honor will allow me an exception.

THE COURT: I will give you an exception.

Q And you contemplated such a heavy flow of traffic at Druid Hill avenue that could not -- there would be a bottle neck at the end of Druid Hill avenue, did you not?

(Question objected to.)

THE COURT: That might be more pertinent to the question of the selection of Druid Hill avenue and Madison avenue and McCulloch. Overrule the objection.

(Question read by the reporter.)

A There is a bottle neck where any one-way street leads into a two way street and that problem is being given serious consideration now and has been for the past three years.

Q As a matter of fact, you have moved the outlet down towards Madison avenue, have you not?

A Towards Madison avenue?

Q Yes.

A No.

THE COURT: Why let it still remain at Eutaw street?

THE WITNESS: Druid Hill avenue dead ends at Eutaw street. We are condemning property across the parking lot and plan to connect Druid Hill avenue with Centre street at the Greyhound bus station and designate Centre street oneway eastbound and Monument one-way west-

bound to hook into Druid Hill avenue, which would give a perfect flow. That is shown on this map. This would be one-way westbound on Madison, from Cathedral west and running into McCulloh. Druid Hill avenue would go on down into Eutaw and out across the lot here right into Centre street to St. Paul.

Q But the existing outlet of Druid hill avenue would have to be changed?

A That is the problem.

Q In order to take care of the increased volume of traffic which you anticipated would be brought on Druid Hill avenue by its designation as a one-way street?

A That is correct.

THE COURT: Do you have a copy of the report of the Planning Commission who recommended these changes?

THE WITNESS: I think they got that from Lang when they took his deposition.

THE COURT: You don't have it.

THE WITNESS: No, sir.

(Testimony of the witness concluded.)

Thereupon - - -

INSPECTOR BERNARD J. SCHMIDT,
a witness of lawful age, produced on behalf of the
plaintiffs, having been first duly sworn according to
law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q You are a police inspector of the Police
Department?

A That is right.

Q And you have been inspector of the Police
Department for how long, Mr. Schmidt?

A June, 1948.

Q Prior to that you were what?

A Captain.

Q In charge of what?

A Traffic Engineering Bureau.

Q You have been in charge of that bureau how
long?

A Since August, 1946.

Q Did your department make any report to any

city officer or any city department or commission prior to 1946 concerning the use of Druid Hill avenue or McCulloh streets as one-way streets?

A Prior to 1946?

Q Yes.

A Not to my knowledge.

Q Was your office called in regarding the conversion of Druid Hill avenue as a dual highway with Druid Hill Park?

A Not during the planning of it. We were called in after the construction had begun.

Q The decision had been made when you were first called in to deal with problems of traffic on the proposed highway?

A Yes.

Q Was your department called in by any City Board concerning the designation of McCulloh street and Druid Hill avenue as one-way streets?

A Yes, sir.

Q What department?

A The Department of Public Works and the City Planning Commission.

Q When was that?

A I would judge that was during the summer or fall of 1947.

Q And that was after the work had started on the proposed dual highway?

A Just about the time of the beginning of that work or after.

Q And the purpose of calling you in at that time was to study the flow of traffic on Druid Hill avenue and McCulloh street into the dual highway, was it not?

A No. I would say that the purpose of calling us in at that time was to get our opinion on the feasibility of determining whether or not McCulloh street and Druid Hill avenue should be designated as one-way thoroughfares.

Q But that was after the city had been committed to the dual highway and construction had begun?

A I presume so.

Q That was also in connection with the proposed plan of the Transit Company to change its traffic on Druid Hill avenue from fixed wheel to free wheel traffic, was it not?

A That was in conjunction with the designation of those two streets as one-way thoroughfares.

Q Is truck traffic permitted on the dual highway through Druid Hill Park?

A As far as I know, it is generally prohibited through all the city parks. Specifically on that highway, I think yes.

Q It is prohibited?

A Within the park. That is a Park Board regulation.

Q It is not prohibited however, on Druid Hill avenue or McCulloh street?

A That is correct.

Q What happens to the truck traffic which goes up or down Druid Hill avenue and McCulloh street and which on a normal flow of traffic would be fed into this dual highway?

A What direction?

Q Let us take it first coming from the city, moving toward the park. What becomes of that traffic?

A Where would they be destined for?

Q Suppose they were destined for some place that would normally use this proposed dual highway through the park we have been talking about, and let us say that truck traffic is moving up either Druid Hill avenue or McCulloh street, and if it were a private automobile, would go into and on that dual highway. The question is, since it is truck traffic, where does it go instead of going on the dual highway?

(Question objected to; objection overruled.)

A That depends on where it is destined to. Will you make your question more specific?

THE COURT: Suppose it were destined for Westminster or Pittsburgh or in that direction, how would it get off of McCulloh street or Druid Hill avenue going north. It would go up McCulloh street, wouldn't it?

THE WITNESS: Yes, sir.

THE COURT: How would it get off McCulloh street?

THE WITNESS: Say it was destined to Reisters-town Road and was northbound on McCulloh street, the most logical route for the truck traffic would be northbound on McCulloh street to North avenue, west on North avenue

to Reisterstown Road.

Q Suppose you were coming down from the northwest section of the city, what would it do; where would it go?

A Reisterstown Road.

Q And you were coming to the downtown section and suppose it were a private pleasure car, private automobile which would use that dual highway, what would the truck use coming from the same point instead of the dual highway?

(Question objected to; objection overruled.)

A The truck would have a multiple choice of different streets. The most logical route would be southbound on Reisterstown Road to Fulton avenue, east on Fulton avenue to Druid Hill avenue, south on Druid Hill avenue. As I say, he would have a multiple choice of other streets in that area.

Q Why is truck traffic barred from Druid Hill Park?

A I can't answer that, that is a regulation of the Park Board.

THE COURT: It goes back to the horse and buggy days.

Q You have no connection with the designation of the nature of traffic moving through the park?

A No.

Q Do you have any connection with the designation of traffic moving in places within the city of Baltimore?

A Yes, within the city of Baltimore. With regard to what?

Q Truck traffic?

A We have no authority to designate truck traffic in the city.

Q Did you make a study of the hazards to children ^{case} which would be met in/the Druid Hill avenue and McCulloh streets were designated as one-way streets?

A No, no particular study, and I would like to explain that answer, your Honor, if I may.

THE COURT: Go right ahead.

A Because the designation of a one-way street normally reduces the hazards to pedestrians.

Q You have had actual experience with some of the streets in Baltimore which have been designated as one-way streets?

A Yes, sir.

Q Isn't it true that the uniform experience in Baltimore has been that the designation of one-way streets has lessened the accidents on the streets?

A In some instances yes and in other instances no.

Q So that your statement has to be qualified that the designation of the street as a one-way street lessens traffic hazards.

A I said normally. There are other factors to take into consideration.

THE COURT: You would have to test that by the number of cars operating on the street, wouldn't you?

THE WITNESS: Yes, sir, qualify it.

THE COURT: If you took the number of cars and divided it in proportion to the accidents, perhaps on St. Paul street now you might have more accidents than you had two or three years ago; but, on the other hand, maybe your volume on St. Paul street is three or four times what it was.

THE WITNESS: Yes, sir. The potentialities are greater with the increase in traffic.

THE COURT: You would have to take the percentage increase there on the number of cars.

THE WITNESS: Yes.

Q You are not saying, therefore, that the accident count is less on the one-way streets?

A Numerically, no. As I say, it would depend on certain other factors.

Q What has been the common experience as to the actual count numerically in the number of accidents on the one-way street, has it increased or decreased?

A I think Mr. Murphy has those figures.

Q Your office made no specific or special study of the hazards to the children you testified, that is correct, is it not?

A No, that is not correct. I don't understand your statement.

Q When you were called upon to make your recommendations concerning the designation of Druid Hill avenue and McCulloh street as one-way streets, you made no study as to the hazards to the school children as the result of the designation of those streets as one-way streets?

A We make studies, but a general study affecting the whole class of people, not particularly school children.

Q You did, however, make a specific study as to the traffic flow, that is, vehicular traffic flow on those streets, did you not?

A Yes.

Q As the result of that study, you decided you would have to enlarge the outlet of the traffic on Druid Hill avenue?

A We decided to assure a more successful plan of one-way operation that there should be an additional outlet provided at the southern end of Druid Hill avenue.

Q Where, at Eutaw street?

A At Eutaw street.

Q What has been your experience as to the rate of speed on one-way streets, vehicular speed on one-way streets? Do the big vehicles move faster on one-way streets than on two way streets?

(Question objected to; objection overruled.)

A I will have to explain this. If you mean the specific rate of speed, that is not increased by the mere

designation of a one-way street; but traffic in general is expedited through one-way streets.

Q Is it expedited by the individual vehicle moving faster, at a higher speed?

A No, I would not say at a higher speed. I would say at a more uniform speed, and utilizing the complete capacity of a particular street.

Q Is it a fact that the vehicles on the one-way streets in Baltimore move faster, as a general proposition, that the rate of flow of traffic is faster, at a faster speed?

A It is moved more efficiently. Again, I say, not at a specific rate of speed. It is moved more efficiently.

Q And that means a larger volume of traffic?

A Yes, sir. That is based upon past experience.

Q And it also means a greater interference with cross traffic, does it not?

A No, sir, not necessarily.

Q It means, however, limiting cross traffic in favor of the traffic on one-way streets, does it not?

A No, that is not true either. Not over a two-

way street. Perhaps I don't understand your question.

Q The purpose of designating Druid Hill avenue and McCulloh streets as one-way streets was to take care of the volume of vehicular traffic flowing from the outskirts of downtown to the business center and vice versa, wasn't it?

A That is one of the reasons, yes, sir. To make better use of the existing facilities.

Q So that you could get a larger volume of that traffic down town in a shorter period of time with less friction?

A That is not true. To get it down town more efficiently. A larger volume, particularly on McCulloh street, is problematical.

Q Do you know whether any statement has been made in your department, meaning by that, the Police Department, the official statement has been made in the Police Department that the conversion of the one-way operation would result in a peak hour of volume of traffic by ninety per cent.?

A That may have been made by someone other than myself. I don't think it was made by me personally.

Perhaps some engineering study was referred to.

I would refer that question to Mr. Murphy.

Q But it would very materially increase the volume of traffic?

A I say that is problematical. I say that because at the present time McCulloh street is a through boulevard highway. As to what the increase on McCulloh street would be, I don't know. But I feel certain that there would be an increase on Druid Hill avenue.

Q What was the experience on St. Paul and Calvert streets?

(Question objected to.)

Q I mean a comparable experience.

THE COURT: I will let him answer. Give you an exception.

A Mr. Murphy has some figures on that, your Honor. Do you want to refer to those figures or do you want my opinion?

Q I want your opinion.

A In my opinion, there has been an increase.

Q A very substantial increase?

A In some parts of St. Paul and Calvert streets.

Q And there has been a very substantial increase in the speed at which traffic is moved on St. Paul street and Calvert street, has there not?

A No, sir.

Q Do you recommend traffic regulations concerning parking and stopping on streets?

A Yes, sir.

Q What recommendations have you made concerning parking on Druid Hill avenue and McCulloh street, if and when the act goes into operation, as one-way streets?

A Originally we recommended that if and when Druid Hill and McCulloh were designated as one-way streets that the same regulations as are in effect on St. Paul and Calvert streets be adopted. Briefly, on Druid Hill avenue that would mean the southbound street in the morning, there would be no parking, loading or unloading between 7:30 and 10 on both sides of the street. Conversely, on McCulloh street, the evening rush hour, being a northbound street, the original recommendation was that parking, loading and unloading would be prohibited on both sides between the hours of four and six. Thereafter at the hearing held by the City Council, there was a compro-

mise with the Police Department agreed to, although by no means were we convinced that it was the thing to do, but, nevertheless, we agreed that if and when the streets were inaugurated as one-way thoroughfares, we would limit the parking during the morning and evening rush hours on those streets to only one side of the street.

THE COURT: That means you would make what, a three lane proposition instead of four?

THE WITNESS: Yes, sir.

Q Did your department address any written communication to the City Council or to the Committee on Jails and Police concerning this ordinance?

A Yes, sir, we did.

Q Do you have that?

A Yes (handing paper to counsel).

Q Is this your complete file?

A Yes, sir.

Q Will you tell us which communication was addressed to the City Council?

A You understand, Mr. Houston, that correspondence within the police department is through the Chief Inspector's

office and the Commissioner's office. Starting off with this letter here of December 15th, that was our recommendation to the Chief Inspector that the ordinance be introduced. Thereafter, on February 12th, 1948, proposed Ordinance No. 378, which designated those streets, and which apparently the chief inspector recommended. Thereafter, on March 9th, 1948, the Highways Engineer requested an opinion of the Police Department of the desirability of passing that ordinance and that was our answer on March 10th, 1948.

MR. HOUSTON: I will ask that this be marked as Plaintiffs' Exhibit No. 3.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 3.)

Q Mr. Schmidt, I will ask you to take Plaintiffs' Exhibit No. 3, and tell us whether or not that recommendation in there does not concern the control of vehicular traffic?

A No, sir.

Q Will you point out the recommendations which concern control of pedestrian traffic?

A That is a general recommendation, considering

both vehicular and pedestrian.

Q Will you point out there where there is anything which concerns the control of pedestrian traffic?

A It is not necessary to point it out, Mr. Houston, that is part of the general recommendation. It is not the policy to say particular things concerning pedestrians or vehicular traffic.

Q Will you point out anything in there which concerns the safety, which relates to the safety of pedestrian traffic in your regulations governing recommendations for traffic control on Druid Hill avenue and McCulloh streets as one-way streets?

A The only way I can answer that, your Honor, is that it was a general recommendation on the part of the department. I cannot point particularly to pedestrian or vehicular.

Q Do you mean you cannot point to vehicular in those recommendations?

A Yes, I can point to vehicular, but you are talking about safety hazards.

Q I am asking you is there anything in there in your proposed recommendations concerning control of

vehicular traffic which relates to the use of the intersections or the streets by pedestrians?

A I don't think I understand your question.

THE COURT: I think you have to make your question a little more specific. I think I know what his difficulty is, but try to make your question a little more specific for him.

Q This letter of December 15th, 1947, is report from C.O. Traffic Engineering Bureau to the Chief Inspector, subject Druid Hill avenue and McCulloh street as one-way projects. That is true, is it not?

A Yes, sir.

Q In there you deal with the matter of the flow of traffic, the direction of the flow of traffic?

A Yes.

Q You also deal with the matter of parking and standing?

A Yes.

Q You deal with violations of the parking and standing and the flow of traffic movement?

A Yes, sir.

Q I ask you was there anything in that report

which gave consideration to pedestrians, either by way of setting up control intersections or anything else?

A The reason that this report ---

Q Just answer yes or no, first.

A I can't answer that question yes or no.

THE COURT: Let him answer it in his own way, so long as it is responsive.

A This recommendation is in this form because to do the things recommended here requires legislation. Now, conversely, for the safety of pedestrians, which is an integral part of this whole proposal, it is not necessary to have any legislation. Therefore, if I am answering your question, it is worded in this manner because legislation was needed for these particular things.

Q Do you have a written report in your department which is contemporaneous or preceding that of December 15th, 1947, which deals with the matter of pedestrian traffic and control of the traffic on the streets to provide safety for pedestrian traffic?

A I think there are some reports on that. Yes. Here is a report dated January 6th, 1948.

Q May I see that?

(Witness handed paper to counsel.)

MR. HOUSTON: May we ask that this be introduced as Plaintiffs' Exhibit No. 4.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 4.)

Q Mr. Schmidt, during the school sessions the children will be usually crossing intersections on the way to school during the peak of the down town morning traffic movement, wouldn't they?

A That is presently true, Mr. Houston.

Q It has always been true, hasn't it?

A That's right.

Q Do you know whether there are any schools in this area which would be affected by the designation of Druid Hill avenue and McCulloh street as one-way streets which have afternoon platoon sessions?

A Not with platoon sessions, no, I would not be familiar with that.

Q Did you make any inquiry in the matter of your study of traffic conditions, pedestrian and traffic hazards, as to whether there were any such schools having afternoon platoon sessions which would let the children out during

the time that you would have -- during the peak traffic flow up town, away from the city, in the afternoon?

A We did not make any particular studies because the schools in that vicinity now cross McCulloch street, which is a through boulevard highway, and which carries a very heavy volume of traffic, and we feel, as I have stated previously, that the one-way operation is a safer operation than the two way operation.

Q The answer, then, is that you made no such study?

A Because of the reason I have just stated.
MR. HOUSTON: Your witness.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q Mr. Schmidt, when a street is made a one-way street, are traffic regulations governing safety or speed immediately suspended?

A No, sir, they remain in full force and effect.

Q You referred to the fact that one-way streets decrease certain hazards. Would you explain to the Court the way in which that is brought about by making the

street one-way?

A I think Mr. Murphy has some studies on that, but if I may give an illustration ---

Q Just give us an illustration.

A For example, Calvert and Lexington streets here, Calvert street is a one-way street southbound and Lexington street is a one-way street westbound. When the traffic is stopped for southbound on Calvert street at Lexington, pedestrians may cross Calvert street without interruption from turning vehicles.

Q Calvert street on what side of Lexington?

A On the north side of Lexington. If that were a two-way street you would have conflict with turning vehicles turning into that street. So a pedestrian may cross a one-way street without turning, in other words, without turning interference from vehicular traffic. In addition to that, I might say that is also true of vehicular traffic in that it reduces the possible points of conflict between the various movements of the vehicles.

Q Do you know the points of origin and destination of the traffic presently using McCulloh street?

A Not to any degree of certainty. I can estimate

it generally. At the present time it is around the section of Liberty Heights, Park Heights, Reisterstown Road and over into Green Spring Valley. That's the origin in the morning, and destined for either West Baltimore or the central business district or other parts of the city.

Q It is said in the bill of complaint in this case that prior to March 18th, 1948, the vehicular traffic on both McCulloh street and Druid Hill avenue was local traffic of persons resident in or visiting the neighborhood. From your experience, can you tell me whether that statement is true or not?

A I don't agree with that statement.

Q Will you tell us why you don't agree with it?

A Because those streets then and now are used by the origin and destination which I have just quoted.

Q You mentioned Ordinance No. 378. Is there any relationship between that Ordinance and Ordinance No. 169?

A Yes, Ordinance 378, in so far as I am able to ascertain, was the first number and after that ordinance was enacted into law, it was then given a permanent number and made Ordinance No. 169.

Q When you limit the parking on only one side of a one-way street as opposed to both sides, what effect will that have on the volume of the traffic using this street?

A It will have the effect of reducing the potential capacity of that street to three lanes instead of four lanes.

MR. O'DUNNE: That is all.

MR. HOUSTON: No further questions.

THE COURT: Tell me this, Inspector. What are you going to do with the truck traffic up there in the vicinity of Druid Hill Park? These trucks cannot go through the park, as I understand it, unless you get a special ordinance through.

THE WITNESS: Yes, sir.

THE COURT: Won't they continue to go up to Druid Hill Park and then have to find their way out through some of the side streets or something of the kind?

THE WITNESS: No, sir. We would post directory signs. For example at North avenue at McCulloh, which

would direct truck traffic across North avenue. However, that would only be advisory because they would have the choice of going up to Whitelock street or they would have the choice of going up to Cloverdale Road and continue back through Francis street to Reisterstown. It would be advisory only.

REDIRECT EXAMINATION.

By Mr. Houston:

Q Just one question. There is no limitation on the size of the trucks which would be permitted to use Druid Hill avenue and McCulloh street, is there?

A We have no authority as to limitation of size of vehicles on the city streets.

Q Who has that authority?

A No one at the present time. I may answer that more directly. It would require legislation.

(Testimony of the witness concluded.)

Thereupon - - -

CHARLES J. MURPHY,

a witness of lawful age, produced on behalf of the plain-

tiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Murphy, what is your position?

A Traffic Engineer of the Baltimore Police Department.

Q You have been that how long?

A Since March, 1947.

Q Did you have any official connection or any official reason to make a study of traffic prior to 1947?

A No, I did not.

Q Do you have any record of the traffic counts on Franklin and Mulberry, St. Paul and Calvert, prior to the times when they were designated as one-way streets?

A No, I don't have that information.

Q Do you have the information concerning Calvert and St. Paul streets?

A Yes, I have those.

Q Do you have it written?

A Yes, I do.

Q Will you let us have those?

(Papers handed to counsel by witness.)

MR. O'DUNNE: To be consistent, your Honor, I would like to object to this on the ground it is not relevant.

THE COURT: Give you an exception.

A This is the Calvert street count, this is the St. Paul street count (indicating).

Q May I just ask you a question. I see one is marked, apparently it was introduced in the deposition.

A Yes.

Q Is this the accompanying one?

A That's right.

MR. HOUSTON: I ask that these be marked as Plaintiffs' Exhibits 5 and 6.

(Papers referred to were received in evidence and marked Plaintiffs' Exhibit 5 and Plaintiffs' Exhibit 6, respectively.)

Q Can you translate these two charts into terms of figures for us or in terms of percentages?

A Yes. These two sheets show the before and after volume counts on Calvert and St. Paul streets on a

twenty-four hour basis. Of course, the volumes vary from point to point along each street, and it raises -- I will read off some of the volumes at various points before the study. St. Paul street, south of Fayette, for example, there were 15,818 vehicles over a twenty-four hour period prior to the designation of that street as a one-way street. After designation as a one-way street, there were 16,944. I picked a portion of the street which is not one way inadvertently here. Take Mount Royal avenue, south of Mount Royal avenue, on St. Paul, it was 14,999 before one-way operation and 18,259 after, on a twenty-four hour basis.

THE COURT: You are now talking about St. Paul street.

THE WITNESS: I am now talking about St. Paul street; yes, sir.

THE COURT: To put it a short way, the increase runs from twenty to fifty per cent. over what it was. In one place it is fifty per cent., isn't it?

THE WITNESS: In one place.

THE COURT: And in another place it runs around

twenty per cent.

THE WITNESS: That is correct. Here we have a one hundred per cent. increase below 29th street. On Calvert street the same thing implies, the same interpretation of the data.

Q And that increase is in the residential area?

A On St. Paul street there is an increase all along the street, but it is heaviest

Q But it is heaviest in the residential portion?

A That is correct. On St. Paul street, that is.

Q I will ask you if you have an accident survey on St. Paul street before and after?

A Yes, I have. Is it in order for me to make a remark, your Honor?

THE COURT: He just asked you if you have the survey. Do you have it?

THE WITNESS: Yes.

MR. HOUSTON: I want to introduce this and have it marked as an exhibit.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 7.)

MR. HOUSTON: If your Honor please, I would

like to call your Honor's attention particularly to the question of accidents involving turning movements. I think Mr. Schmidt testified as to that, and the increase is shown as an increase of 221% after designation.

Q As a traffic engineer, you are concerned with traffic flow, are you not?

A We are concerned with the movement of both vehicles and pedestrians.

Q You are concerned with the movements of the motor vehicles and you have made a study, have you not, of the use of this proposed dual highway through Druid Hill Park in connection with Druid Hill avenue and McCulloh street?

A We have made certain studies of the comprehensive plan.

Q Was your office called into consultation on the decision to close the dual highway through Druid Hill Park while Druid Hill avenue and McCulloh street are being used as two way traffic streets?

A I personally was not consulted about that, to my knowledge. However, Inspector Schmidt, may have been in consultation with the other authorities.

Q Is it within the duty of your department to estimate anticipated increase in traffic flow in the change of streets from one-way to two ways and two ways to one-way?

A My job primarily, I would say, would be to devise a system of control along those streets to afford the greatest measure of safety to the people using those streets and to expedite the flow of traffic on those streets. The proposed increase, while we recognized there would be an increase, we were not so much concerned with the magnitude of it, but rather whether we could effectively control it.

Q Was your office called into consultation in making the proposed estimates of additional signals at a cost of \$19,991.14 which appears in the report of January 6th, 1948?

A That is right.

Q To justify an additional expenditure of approximately \$20,000 for additional signals, you had to anticipate a considerable increase in the volume of vehicular traffic, did you not?

A Not necessarily. I don't understand what you

mean by "considerable increase."

Q Let me put it this way: What anticipated increase in the volume of vehicular traffic on those two streets justified your recommended expenditure of nearly \$20,000 for new signals.

MR. O'DUNNE: I object. He did not say it was an increase of traffic to justify it.

THE COURT: I understood him to say he anticipated an increase, but the question was not how much the increase was but how effectively they could control it.

THE WITNESS: That is right, Judge.

THE COURT: Your question is whether the increase was sufficient to justify the expenditure of \$20,000.

MR. HOUSTON: That is right.

THE COURT: I think the question is all right. Overruled.

A The decision was made that the streets were to be proposed as one-way streets. That was to be considered by the City Council and acted upon. We had to assume that the streets that were going to be designated one-way streets and had to plan for the control thereof. After they were so designated, then it was our function to exe-

cute that plan. After the streets were made one-way it was necessary for us to locate the signals and signs regardless of the increase on those streets.

Q What were the conditions, then, which justified an expenditure of \$20,000? What change from a two-way street to a one-way street was there if it was not volume of traffic?

A I can explain that. A one-way street is not inherently better than a two-way street because traffic travels on it only in one direction. But because of effective signal control and proper signing, you can make traffic travel in platoons, which provides gaps in the traffic for cross traffic and also for pedestrians. You cannot get that characteristic of traffic flow unless you have your traffic signals properly placed along the arteries. If you have it properly signalized, the vehicular cross traffic and pedestrians have an opportunity to cross safely not only at signalized intersections but at unsignalized intersections.

Q But moving the traffic into compact platoons anticipates an increased volume, isn't that true?

A You get an increased volume because you are us-

ing the street more efficiently. You cannot draw the conclusion from that that it is more hazardous or that the street is in use more than it was previously.

Q Having given us this accident survey of St. Paul street, showing an increase in the number of accidents after the designation as a one-way street, let me ask you if you have any study which shows a contrary experience where there has been an increase in the flow of traffic over the street after the designation. I say when there has been an increase in the volume of traffic?

A Of course, it isn't simply a matter of so many accidents you have had and the total volume of traffic over a twenty-four hour period. There is a time element in traffic and we are concerned in moving a given number of specified vehicles at a given time, say at evening peak. I can show you accident data on Calvert street, where we have had a decrease, and indicates we have had a considerable increase in volume during the peak hour.

THE COURT: Gentlemen, suppose we go ahead after lunch. Take a recess now until 1:30 p. m.

(Recess from 12:30 p. m. until 1:30 p.m.)

AFTER RECESS (1:35 P.M.)

Thereupon - - -

CHARLES J. MURPHY,

whose examination was suspended for the purpose of taking the noon recess, resumed for

DIRECT EXAMINATION (Continued).

By Mr. Houston:

Q Mr. Murphy, as Traffic Engineer, you are concerned with the control of traffic both vehicular and pedestrian?

A That is correct.

Q Total traffic on the street?

A That is correct.

Q Did you make a study of the density of the area, population density of the area?

A No.

Q Do you know whether the area there is of greater density in population than most other sections of Baltimore?

A I don't know that as the result of studies that

we have made for that particular purpose, but I suspect that it is densely populated.

Q The presence of young children on the street is an element in controlling traffic, is it not?

A It is one of the things that must be considered.

Q Did you make any study of the recreation areas available in the neighborhood on the question as to the presence of young children on the street after school hours or during vacation time?

A I personally did not.

Q Do you know whether any such study was made in connection with your recommendations?

A That, of course, is primarily a responsibility of the department of Planning. We made our recommendations as they made theirs.

Q Did you have such information available to you at the time you made your recommendations January 6th, 1948?

A I don't recall specifically a report we had in hand, but that was one of the things we considered of course.

Q What is the status of the recreational areas in that particular neighborhood?

A I am not able to recall offhand the particular layout of recreational facilities in that area, though I may have been cognizant of that at some later date.

Q Did you have any conference with principals of schools or other educational authorities as to whether your plan adequately provided for the safety of children?

A To my knowledge, no.

Q On a one-way street, let us say, going north toward the park and a child is crossing west to east, with a one-way street traffic is much closer to a child moving north on the west curb than it would be on a two-way street, is it not?

A No.

Q Why?

A Because you have southbound traffic on that street.

Q I am talking about a one-way street. You have traffic only one way and I am talking about the matter of one-way directional traffic, where the traffic uses the entire street.

A Yes.

Q And traffic making a lefthand turn off a one-way street into an intersection, let us say going north, and making a lefthand turn to go west, it is much nearer a child on the west side of the street than it would be on a two-way street, isn't it?

A The northbound traffic is closer to the child, but on a two-way street you still have southbound traffic.

MR. HOUSTON: That is all.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q Mr. Murphy, with respect to one-way streets, have you in your experience as a traffic engineer, acquainted yourself with the experience that other cities have had with respect to one-way streets, in so far as traffic loads are concerned?

A Yes, I have.

Q Will you tell the Court what the experience in some cities has been with one-way streets?

A In many cities they have had one-way streets for years. Philadelphia is one, Buffalo another, Detroit

is another. In each case they found where they got an increase in the general volume of traffic, as much as ninety to one hundred per cent. during certain periods of day almost without exception they got a decrease of accidents of almost fifty per cent.

THE COURT: You mean with reference to the number of vehicles using the street?

THE WITNESS: That is the absolute number for the accidents. If you put in an exposure factor, of course it looks much better. But this is on the basis of purely the number of accidents.

THE COURT: How do you account for the fact that one-way traffic streets like St. Paul and Calvert streets show an increase?

THE WITNESS: There are a number of reasons. Of course, in the case of Calvert street, you have a 17% decrease, and if you consider Calvert and St. Paul as one street in fact, because it acts as a dual highway, so you can consider it as one artery, the pair of them together, and if you summarize the accidents on those two streets you have practically no change in the accident rate. Of course,

you can ask why we don't have a pronounced decrease, and I think that can be attributed to a number of things. In the first place, the sample we are considering actually is comparatively small, it is only a one year sample, and these other cities have had an opportunity to arrive at an average rate, they have had the initial period during which you have many accidents over with, and they got settled down. Then, too, on St. Paul street, you are operating under the handicap of abnormal times. Everyone has been attracted to St. Paul street and it is carrying more than it should. That is one reason why we are anxious to get Druid Hill and McCulloh street. So you have an abnormal load on St. Paul street; and, further, on St. Paul street, you have some grade conditions that cause accidents. You have the heavy grade below Monument street and you have a bad grade at Chase.

THE COURT: It would seem to me you get excessive volume of traffic on Calvert and St. Paul streets, you would get a far better result on two parallel streets, Maryland avenue and Cathedral, than you would get by going up McCulloh and making a one-way street out of that.

THE WITNESS: Of course, there was a very comprehensive study made, the Maryland transportation study, which showed the origin and destination and relationships within the city, where people start from and where they want to go. On the basis of that information and the theoretical capacity of the street surveys available, it was determined not only do we need McCulloh and Druid Hill avenue to take care of the northwest flow, but we need both Charles, St. Paul and Calvert and Cathedral to make it flow north. Then after we get those streets, there is still going to be traffic congestion because of the time element. Everybody seems to want to get home by five or five-fifteen and we try to relieve the congestion and hazards that exist.

THE COURT: There is no statute pending, so far as you know, against Maryland avenue and Charles street, is there?

THE WITNESS: No, there is not, but there are many agencies involved there. For instance, the police department could very well hold up the conversion of this street until we put in the signals and the signs. That isn't the case, but it could be.

THE COURT: What is the case?

THE WITNESS: My understanding is that the 25 line must be converted to free wheel operation or at least rerouted to Maryland avenue above Chase street.

THE COURT: Don't you have to reroute some traffic on Druid Hill avenue to run street cars going up Druid Hill avenue?

THE WITNESS: No, sir.

THE COURT: They have been taken off?

THE WITNESS: They have been taken off.

THE COURT: How is it they could get those off and could not get the 25 line off?

THE WITNESS: Your Honor, I can't answer that question. That is a matter of the timing of the execution of these plans.

Q (By Mr. O'Dunne) Actually Druid Hill avenue and McCulloh street are designed to take care of traffic destined to different sections than the traffic customarily using Calvert and St. Paul streets, are they not?

A They should use St. Paul and Calvert. The point is that some of this traffic that originated in the north-

west section now goes down Druid Hill Park to Mount Royal and goes across Mount Royal, then feeds south on either Cathedral, Charles or Fallsway. That creates a bottle neck at North avenue, on your north and southbound streets because you are controlled by traffic signals and you must divide the green time of those intersections to take care of both the north-south flow and the cross flow. Right now we have congestion on St. Paul street because we cannot open up the signal system. If you could divert the traffic that now goes across there, if you could bring that down Druid Hill avenue and McCulloh and let those streets serve the areas between the two served by the northwest area to the down town area, then you could relieve North avenue and give more time to St. Paul and Cathedral streets, when they are converted, then you will begin to have some sort of a traffic plan that may function properly.

THE COURT: The reason I ask these questions is this: Wasn't the first street plan in Baltimore that was involved for one-way streets what they called the number 5 plan? Wasn't that the number 5 plan of the Baltimore Transit Company which involved the removal of street cars off

Charles street and Maryland avenue and off Calvert street? Wasn't that the first bit of planning that was done except possibly for the Franklin street-Mulberry street one-way thoroughfares?

THE WITNESS: Of course, I hesitate to answer your question --

THE COURT: Was that before your time here?

THE WITNESS: That was before my time. I think Mr. Holland has all of that in connection with the history of the cases.

Q Did you make a study, Mr. Murphy, with respect to the number of accidents on Calvert street before it was made one-way and after it was made one-way?

A Yes, I did.

Q Did you give such a study to Mr. Houston, the results of such a study?

A I did?

Q At any time?

A Yes.

THE COURT: We have a diagram in evidence that shows that, I thought.

MR. O'DUNNE: That is what I was looking for.

THE WITNESS: That is the only one I gave to anyone today, Mr. O'Dunne.

Q Do you have one now that shows the number of accidents occurring on Calvert street before it was made one-way as compared with the number after it was made one-way?

A Yes, I have.

Q I hand you a paper which you have just handed me, and ask you if you can identify this?

A This is a tabulation of the accident experience on Calvert street before and after the conversion to one-way operation.

MR. O'DUNNE: I would like at this point to offer this document in evidence that the witness just identified and ask that it be marked Defendant's Exhibit 3.

(Paper referred to offered and received in evidence as Defendant's Exhibit 3.)

Q At the present time is McCulloh street carrying its full capacity of traffic flow?

A I would say that it is. We made certain

volume counts on McCulloch street and Druid Hill avenue both and the results of those studies caused us great concern not only for the hazards that existed there to vehicular traffic but also to school children. For example, between Robert street and Presstman street on McCulloch street there is a peak of traffic flow, peak hour flow of 903 vehicles. That occurred in the morning between the hours of 8 a. m. and 9 a. m., That is just the southbound flow. If we were to consider that volume of vehicles in relation to the street capacity, which we did, we had to assume that some of those cars were traveling on the wrong side of the street because a two-way street just won't carry 450 cars per lane, particularly when you have parking conditions that now exist on McCulloch street. That means that some of these cars are traveling over the center line which is extremely hazardous not only to cars traveling in the opposite direction but to pedestrians also. In addition to that, of course, you had 227 vehicles during that same period traveling northbound. Our concern was with the pedestrian traffic and was simply this. On a two-way street you have practically a constant stream of traffic when you have volumes of that magnitude. There

is no gap in traffic because you have the southbound stream traveling down McCulloh street, you have the northbound stream traveling up McCulloh street, and there is just no break. When that street is converted to one-way operation the vehicles will be bunched into platoons and there will be a definite break between platoons of traffic as they proceed up McCulloh street.

Q Based on those figures, how would the safety conditions of McCulloh street at present compare with those you expect to find on McCulloh street when McCulloh street is made a one-way street, according to the provisions of the ordinance we are considering here?

A We feel very definitely that a one-way street is not only a better system because it expedites vehicular traffic, but also, and equally important, because it gives the pedestrian a break. As Inspector Schmidt stated, a pedestrian can cross Calvert street on the north side of Lexington without any conflict as long as the vehicles and he obey the traffic signal. If you try to cross at Howard and Lexington, you want to get from the east side of Howard to the west side, you have righthand turns interrupting

the pedestrian street and creating a hazard. Even at the unsignalized intersections on a one-way street, you have a definite break in traffic. In the first place, you only have to look in one direction. In the second place, of course, there is a definite gap for pedestrians to get across. We feel if and when that street is converted to one-way operation, both from a vehicular and pedestrian standpoint it will be a safer operation.

Q Can you tell us anything with respect to what is contemplated in the way of traffic controls and safety devices on Druid Hill avenue and McCulloh street?

A Yes. Of course, the policy of the police department is to assign a traffic officer to all school crossings, in so far as the number of men they have available permits them to do so; at primary crossings there is usually an officer. In addition to that, new signals are proposed because they have to be prepared and considerable preliminary work done to install traffic signals at various locations along those streets.

Q Have you any chart showing the contemplated installation of those signals?

A Yes, I have.

Q The paper which you have just handed me I will hand back to you and ask you if you can identify it?

A This is a layout of the existing and proposed signal layout for Druid Hill avenue and McCulloh street between Whitelock street and Kutaw street.

Q It is a legend sheet showing which are existing and which are proposed?

A The proposed are shown in green and the existing in red.

MR. HOUSTON: When was this made?

THE WITNESS: That particular plat was just drawn up recently from a rough copy we had in the office.

MR. HOUSTON: Was this made since your deposition was taken?

THE WITNESS: That particular layout was, yes.

MR. O'DUNNE: I would like to offer this in evidence.

(Paper referred to offered and received in evidence as Defendant's Exhibit 4.)

THE COURT: I notice a good many, seven signals on Druid Hill avenue.

THE WITNESS: Yes, your Honor.

THE COURT: And those signals cost about \$2,000 apiece, don't they, something like that?

THE WITNESS: Roughly.

THE COURT: Have you ever given any consideration to the system like they use in New York City, for instance, where you stop on a signal at an intersection?

THE WITNESS: Yes, sir. We have observed that many times.

THE COURT: Would there be any reason why that could not be used on a street like this?

THE WITNESS: We don't feel that system is as efficient as the one we propose to use there and as the one we now have in operation on our one-way streets.

THE COURT: When you get a progressive flow of traffic, you move the traffic along at a continuous rate.

THE WITNESS: Yes, sir, continuously. The New York system is the result -- the signal installation was put in about thirty years ago, whereby each signal is not controlled by a separate control but remotely and they all go green at the same time. You have to stop at the nearest intersection to let cross traffic through.

THE COURT: They certainly save a good many

signals that way, don't they?

THE WITNESS: Of course, all they save there is the cost of control, which is about ten per cent. less than the cost of installation, but still they have to be installed, that being a good part of the expense. We feel ten per cent. of the cost of installation is a pretty good investment, on Calvert street, for example, to be able to travel thirty-six blocks without stopping. You cannot do that in New York.

THE COURT: I can understand why you need so many signals on the one-way streets because what you want to do is not to keep the traffic starting and stopping, you want to keep it continuously moving, don't you?

THE WITNESS: Yes, sir; and still provide gaps for pedestrians and cross traffic.

THE COURT: This probably is not the time to ask some things that are in my mind, One of them is, why is it necessary to stop four or five times say going up Howard street to Biddle street ?

THE WITNESS: Because Howard street being a two-way street, has all the evils of the two-way streets. You have a lefthand turn at Franklin street, for example.

Then you get somebody tying up the traffic in the inside lane, and you have a traffic operation in the outer lane, loading and unloading, the street is blocked. On the one-way street you always have one-way to open lanes and there is no conflict with a left turn vehicle, which is a tremendous advantage.

Q (By Mr.O'Dunne) Are trucks presently barred from using Druid Hill Park?

A Yes, commercial vehicles.

REDIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Murphy, you testified about experience on one-way streets in other cities, are you testifying on the basis of personal observation?

A No.

Q On what are you basing your testimony?

A On information that has been published in technical journals which have been properly documented to my knowledge.

Q Give me the names of some of those articles.

A The Traffic Engineering Hand Book.

Q Which issue?

A I don't have that. I cannot quote it exactly, I can supply the necessary documentary evidence, if you desire.

Q When, approximately, was that study published?

A I can get you all of those details but I don't have them now.

Q How recent is your information?

A I can make a guess, but I am not going to try because I want to give you the exact information. If you want the exact information, I will bring in the original source.

Q What particular cities do they apply to?

A Philadelphia.

Q Give us the source of your information concerning Buffalo?

A The reference I am making was to a table in a particular section, or the two references I have in mind, in which the experience of various cities was stated and the actual count given.

Q What was the other reference you gave us, another reference?

A I think it is called "Traffic Engineering Plans and Functions."

Q What is the date of that?

A I don't remember the date exactly. That is a recent publication. I can't give the exact date.

Q Do you know anything about the question of traffic controls in those cities before and after designation of their one-way streets?

A The practice is in Philadelphia, I know through observation, to signalize their one-way streets.

Q No. My question is, in reaching this question about the accident experience, can you tell us what were the traffic controls exercised on a particular street on which the accident experience was taken before and after the designation of one-way streets?

A No, I cannot give you a detailed report on that.

Q So there may be many factors entering into the result which you have not accounted for?

A That is quite true.

Q In this matter of the decrease of accidents on Calvert street, there has not been a significant increase

of traffic volume on Calvert street since its designation as one-way streets, has there?

A There has been a significant increase in the volume rate during certain hours. For example, on Calvert street during the peak hour that is, from eight a. m., to nine a. m., below Preston street, the before volume was 1188 and the after volume was 2144.

Q Can you tell me where that appears or what you are reading from?

A This is before and after volume study at the peak hour. It was taken from the same basic data from which they appear, but it has another derivation.

THE COURT: The other one is a twenty-four hour period.

THE WITNESS: That is right.

Q You mean there is a breakdown there?

A Of the peak hour.

Q Can you tell me whether you have the accident rate for the peak hours?

A The accident rate for the peak hours?

Q Yes.

A No, I don't have that break down.

Q You cannot really make any generalization unless you give us the accident rate for the peak hour. You made a statement that the accident rate on Calvert street had decreased?

A That is not a generalization.

Q You say that is a fact?

A Yes, sir.

Q Then I asked you whether there has been any increase in the volume of traffic on Calvert street and you said yes, during the peak hours.

A I qualified that. I said there had been an increase in the volume rate.

Q In the volume rate during the peak hour?

A Yes.

Q Now, I want to get the accident rate during the peak hour.

A I cannot supply that to you right now.

Q Can you tell me whether you have put in any more traffic controls on Calvert street after its designation as a one-way street?

A Yes, there were additional traffic control

signals placed on Calvert street. I cannot give the specific locations offhand.

Q And there were additional traffic controls placed on St. Paul street?

A Yes.

Q And with the increased volume of traffic over a twenty-four hour period on St. Paul street, even in spite of that you had this increase in accidents on St. Paul, is that correct?

A Yes, there was an increase; but, again, if it is in order, I would like to state the sample we are discussing is limited. I don't know whether you can draw any concrete conclusions from it for that reason. Accident rates vary considerably from year to year without any change in conditions; at an intersection, for example.

Q You had your deposition taken in connection with this case, did you not?

A Yes, sir, that is right.

Q And you knew we were concerned with the matter of relating the question of accidents to traffic volume?

A Yes.

Q And you made a study of the traffic volume on

Calvert street during the peak hour?

A Yes.

Q But you did not make a study of the accident rate on Calvert street during the peakhours, did you?

A No.

Q Would you say, having adverted to your figures as to McCulloh street, that McCulloh street as a two-way street is now carrying all the traffic it could carry as a one-way street?

A No.

Q So that you do anticipate an increase in the volume of traffic on McCulloh street over the present volume, when it is designated as a one-way street?

A That does not necessarily follow.

Q I ask you what you anticipate?

A We anticipate an increase, yes.

Q You talked about traffic control signals.

Are you in the 1948-1949 appropriation year at the present time?

A We are in the 1948 appropriation year at the present time.

Q Has the appropriation been exhausted for traf-

fic lights?

A Yes, it has.

Q So that when you told the Court about the proposed traffic controls you are going to install, you are not talking about something for which funds are now available, are you?

A Funds have already been appropriated and have been expended for signals on Druid Hill avenue and McCulloh street and preliminary work has been done on those controls and no more money is needed to execute the plan presented to the Court.

THE COURT: You mean the money is now in hand.

THE WITNESS: It has already been appropriated, and we have bought the equipment and much of the preliminary work has been done and the plan could be executed in a very short time.

THE COURT: How do you do that? Here in the Court House they told us a couple months ago they had no more money.

THE WITNESS: This was a special appropriation granted by the Board of Estimates shortly after the request was made, and after we got it, we spent it for the

necessary equipment and preliminary work, even though the matter was still pending before the Court.

THE COURT: Then the equipment is available, is that it?

THE WITNESS: Yes, sir.

Q (By Mr. Houston) I ask you whether on October 27th, 1948, you were present when the depositions of Mr. Schmidt were taken?

A Yes.

Q You were assisting him with such information as he did not have that you had available?

A Yes.

Q I will ask you if this was the testimony from Mr. Schmidt, supplemented by you --

MR. O'DUNNE: I object to that unless he shows that Mr. Murphy was asked the same question.

MR. HOUSTON: Well, Mr. Schmidt was asked the question and Mr. Murphy answered it.

MR. O'DUNNE: You told Mr. Schmidt this morning that nothing was said about it.

THE COURT: I think there is something reasonable in Mr. O'Dunne's position. I don't think this witness

should be asked to answer a question that was asked Inspector Schmidt.

MR. HOUSTON: Except that he answered it.

MR. O'DUNNE: Inspector Schmidt answered it.

MR. HOUSTON: No, Mr. Murphy answered it.

THE COURT: Then ask him if he said such and such a thing then and says something else now.

Q You stated, Mr. Murphy, back on October 27th, 1948, did you not, that the appropriation for traffic controls and other things had been exhausted the day preceding?

A That is correct.

Q And at that time the work for these lights and things had not been completed, had they?

A All of the equipment had been purchased quite a while before that time and much of the work had been done at that time.

Q What additional work and what additional expenditures would have had to have been incurred since October 26th, 1948, for you to put all of these signals in operation?

A None.

Q No work at all?

A No.

Q Well, where are the signals now, on the street or in the warehouse?

A All of the work has been accomplished. We have not hung the signals because we are awaiting the outcome of this case. We did not want to be in the position of anticipating the finding of the Court by going ahead with the plan which is now in question before the Court.

THE COURT: Then the equipment is not available, it is on order?

THE WITNESS: No, we have it.

THE COURT: Is that interchangeable? Did you get that for Maryland avenue and Charles street?

THE WITNESS: No, we bought the equipment and held it in reserve in stock.

Q How long has this rule been in effect there should be a traffic officer on duty at all principal school intersections?

A I cannot answer that question.

Q You have been a traffic engineer now for how long?

A Since March, 1947. However, I am not associated with the enforcement policies of the Police Department.

Q But you testified it was a rule to put a traffic officer at all school intersections.

A Where those men are available. It has been my observation when men are available they are assigned to school crossings morning and evening.

Q Do you know whether any policemen were regularly assigned to school crossings in this particular area before this case started?

A That I do not know. I know nothing about the assignment of officers in specific areas.

MR. HOUSTON: That is all.

THE COURT: I am not clear on this equipment business. I understood you to say you had the equipment on hand.

THE WITNESS: Yes, sir.

THE COURT: Then I understood you to say you did not want to buy the equipment because you did not

want to anticipate the judgment of the Court.

THE WITNESS: We did not want to install the equipment, your Honor.

THE COURT: But you have the equipment available somewhere?

THE WITNESS: That is correct, it is in the storeroom.

THE COURT: It is in the storeroom of the Traffic-Engineering Department?

THE WITNESS: Yes, sir.

THE COURT: Do you have all of it?

THE WITNESS: We have all that is necessary to execute that plan.

(Testimony of the witness concluded.)

Thereupon - - -

JOHN J. LANG,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Will you state your official position?

A Deputy Director of Planning.

Q You have been Deputy Director of Planning
how long?

A Since January of 1948.

Q Prior to that, what was your official position?

A Secretary-Engineer of the Planning Commission.

Q Did you have any other position besides Secretary?

A I had charge of the operation of the staff.

Q Were you the senior engineer of the Commission?

A We have no such position in our department.
The Secretary-Engineer was the ranking civil service position on the Commission's staff.

Q I ask you if you testified in your deposition on October 8th, 1948 in this case?

A I don't know the exact date, but we appeared over in the office of the City Solicitor and you were present, along with Mr. O'Dunne, and I testified on that day.

Q I will ask you whether you recall this question

and answer: "Q. Your official position? A. Deputy Director of the Department of Planning. Q. And you have been that how long? A. I have been Deputy Director since February of this year, but senior engineer of the Commission since 1939."

A I could not have said "senior engineer" because there is no position of senior engineer. I was secretary-engineer of the Commission up to that time.

Q That was the Planning Commission?

A Yes.

Q Will you tell us whether the Planning Commission functioned with regard to the designation of the streets, arterial highways or anything like that?

A It is not our responsibility to designate direction of traffic.

Q Did you study or work on the question of traffic designation?

A Our Commission, in cooperation with other municipal departments, study the highway patterns, and that is part of the general planning scheme to study traffic.

Q Did you work with anybody else except municipal

agencies? Did you work with any other bodies besides municipal agencies, Baltimore Transit Company for instance?

A I don't understand your question.

Q Let me ask you this. Do you recall this answer in your deposition: "Q. Under the Planning Commission, what was the function of the Planning Commission with regard to the designation of streets, as either one-way expressways, arterial highways, or what? A. Those particular matters would be studied and worked out jointly with the other municipal agencies, the Transit Company, Public Service agencies, and being, we would say, a part of the traffic and highway matters, it would come to our Commission for approval."

A That is correct. I repeat that statement.

Q I ask you prior to 1946, was there an overall plan for development of traffic in Baltimore City?

A The overall pattern was in the process of being studied.

Q I will ask you what studies or reports the Planning Commission made concerning the development of traffic in Baltimore City prior to the new city charter, while you were secretary?

A Our Commission itself made no written report on traffic since 1939 or 1940.

Q Did you adopt any report that had been made concerning the development of one-way streets?

A We conferred and discussed with various agencies, including The Baltimore Transit Company, one-way streets because it was part of the overall traffic and transit improvement program that was launched by The Baltimore Transit Company.

Q Didn't the Baltimore Transit Company submit to the president of members of the City Council of Baltimore its own plan for the designation of one-way streets, copy of which was given to your Planning Commission?

A You are referring to the Riders Digest?

Q Yes.

A That plan was discussed with our Planning Commission.

Q Did your Planning Commission adopt that and approve the report and make it in substance its own report?

A I don't believe our records will show we gave

the entire document an outright approval. There were certain changes that would have to be made, there were various phases of this program that would have to be approved by our request of the Mayor and City Council. Our Commission reserved the right to approve the improvement program of the Rapid Transit and reconversion program and the designation of streets based on the various projects. They have anywhere from one to six or seven projects.

Q But the designation of McCulloch street and Druid Hill avenue as one-way streets, with removal of the fixed wheel traffic to free wheel traffic on Druid Hill avenue, was a project of the Transit Company?

A Yes. Our Commission concurred in that plan.

THE COURT: Where did the plan originate, in your Commission or in the Transit Company?

THE WITNESS: I would say it originally was brought up in the highway pattern which was developed by the Chief Engineer or the director of Public Works, and the plans were discussed with our Commission and our then Chief Engineer, Mr. Nathan L. Smith made a comprehensive report on traffic arteries and traffic.

THE COURT: Are you using the plan that originat-

ed with Mr. Nathan Smith?

THE WITNESS: This particular plan?

THE COURT: This particular plan, yes.

THE WITNESS: I don't know I can make that direct statement. I would have to check our records.

Q (By Mr. Houston) What comprehensive study of traffic in Baltimore City, showing points of origin and points of destination, was in existence prior to, say, 1946, if any?

A As far as the comprehensive origin and destination studies, the documents that are there that were made by the State Roads Commission jointly with the City of Baltimore, and the Federal Government. That is the only real comprehensive origin and destination survey.

MR. HOUSTON: We can examine those after the Court recesses. May we leave these here?

THE COURT: You can leave them here during the trial of the case and we will see that you get them back, Mr. Lang.

Q Did the Planning Commission make any reports as to the state of pedestrian traffic on these streets

that were proposed by the Baltimore Transit Company as one-way streets, with removal of fixed wheel traffic to free wheel traffic on Druid Hill avenue?

A None.

THE COURT: Your answer is no?

THE WITNESS: No, sir.

Q Did the Planning Commission make a study of the proposal for the dual highway in Druid Hill Park connecting with Druid Hill avenue and McCulloh street?

A Our Commission records show that there were some previous studies made on that project and then the final plan was developed in the Department of Public Works, and our Commission approved that particular plan on September 25th, 1946.

Q And that was approved after the report of The Baltimore Transit Company regarding the designation of Druid Hill avenue and McCulloh streets as one-way streets, with removal of the fixed wheel to the free wheel traffic on Druid Hill avenue?

A Yes, because their report came out in 1945 and our approval was in September, 1946.

Q Also the dual highway was constructed with

reconversion funds which were acquired from The Baltimore Transit Company?

A I could not answer that question. That is not a responsibility of our department.

THE COURT: That has been testified to earlier in the case.

Q There has been earlier testimony, Mr. Lang, of the consideration of Maryland avenue as an alternative to Druid Hill avenue.

THE COURT: Madison avenue.

MR. HOUSTON: I am sorry. There has been testimony of the consideration of Madison avenue as an alternative to Druid Hill avenue as one of the one-way streets. Are you familiar with that from your official position with the Planning Commission?

A You say Madison avenue?

Q Yes.

A Our department did not discuss Madison avenue as part of the one-way system.

Q Your department approved of the dual highway through Druid Hill Park as an integral link with Druid Hill Avenue and McCulloh streets as one way streets?

A Yes.

Q So that the decision to make McCulloh street and Druid Hill avenue as one-way streets, so far as your department is concerned, had been arrived at by 1946?

A I can say yes to that question.

Q The dual highway would have very little use compared to its potentialities unless Druid Hill avenue and McCulloh street were designated as one-way streets, would it not?

A That would make it more efficient for a dual highway, yes.

Q Much more efficient?

A Yes.

Q And it would carry a much larger volume of traffic into and out of the dual highway?

A I don't know what percentage of increase but it will separate the traffic. In other words, you have a total volume moving in two directions on the two-way street. That same volume will be divided up and will be a safer movement in the one-way direction.

Q At the present time it is testified that because of traffic hazards, this dual highway has been

closed off at Druid Hill avenue and McCulloh street?

Are you familiar with that fact?

A Right there by the car barn, do you mean?
Cloverdale Road?

Q Yes.

A You mean the cutoff from the car barn through
the park there is a link where you make a left turn?

Q Yes. That has been blocked off?

MR. O'DUNNE: I don't think he understands the
question.

Q Are you familiar with the fact that that has
been blocked off?

A If you make it clear to me exactly what
locations you are talking about being blocked off, I travel
through there and I can see the street that is blocked off.

THE COURT: He is talking about the section from
Cloverdale Road up to Fulton avenue and Druid Hill avenue.

THE WITNESS: I have not been through for the
past two weeks, your Honor, and I am not familiar with
whether the street is blocked or not.

Q Mr. Lang, as secretary of the Planning Com-
mission, did you consider the density of population through

which these one-way streets, McCulloh street and Druid Hill avenue, would move?

A Our Commission, in studying a street pattern, would take that particular subject into consideration.

Q Well, did you?

A The Commission, knowing and being so familiar with the area of the city, I would not know whether the Commission themselves when they discussed it, took the density of population into consideration. Most of the members of our Commission are very familiar with all sections of the city, and I am pretty sure they knew the characteristics of that particular neighborhood.

Q Is there anything which would let you say that the Commission did take into consideration the density of the population in that particular area when it considered the question of approving McCulloh street and Druid Hill avenue as one-way streets?

A I don't believe the Commission -- it probably felt that the population would not have any effect on that particular project. If it had been a serious problem, they probably would have considered it because they con-

sider all angles before they make a recommendation and give approval to such a plan.

Q You know, as a matter of fact, do you not, that this particular area is the most densely populated in the City of Baltimore?

A I know it is one of the most heavily populated areas; yes, sir.

Q Did you take into consideration the location of schools in reference to the designation of these two streets as one-way streets?

A They were cognizant of the factor of the location of the schools and churches.

Q Will you locate the schools and churches for us in that area?

A From that map or from memory?

Q Oh, either.

THE COURT: If you want to use the map, you are at liberty to do so.

A Just from memory I would not want to testify at this location there is such and such a school, but we have a map in the office that would indicate the location of schools and churches along that route.

Q Is there anything in the records of the Commission which would show that the Commission considered the question of the schools and churches in reaching its approval of Druid Hill avenue and McCulloh streets as one way streets?

MR. O'DUNNE: I object. Wouldn't that be a conclusion of the witness? The records would be the best evidence.

THE COURT: He does not seem to know. He is testifying more or less at random I think. I do not like to characterize it that way, but he says he feels sure the Commission took into consideration those, and feels sure that the Commission took into consideration the safety condition with regards to school children, and now that he has gotten that far, counsel is pinning him down a little bit.

MR. O'DUNNE: He is now asking what is in the records of the Planning Commission. I don't see how that is a fair question. The records would be the best evidence of what is in them, and the witness is being asked to characterize what is in the records and to state his conclusions of what they show.

THE COURT: He was asked whether he knew the location of the schools and churches.

MR. O'DUNNE: He was asked if he knew the location of the schools and churches.

THE WITNESS: We have maps in the office which show the location of schools and churches.

THE COURT: You personally don't know where they are, do you?

THE WITNESS: I have a general idea. It is ninety-two square miles and I have a general idea of where schools and churches are. I do know there are public schools and churches along those highways. Our use maps will show it.

THE COURT: It has not changed much in years and I once lived close by there. I have a pretty good idea.

THE WITNESS: I think our land maps indicate the uses along those two streets.

Q Are there minutes of the City Planning Commission which show the action of the City Planning Commission on the extension of Auchentoroly Terrace and on the designation of Druid Hill avenue and McCulloh street

as one-way streets?

A I have a copy and I believe I gave you a copy of that hearing in October. Here is a copy of excerpts of the Commission minutes of September 25th, approving the Auchentorely project.

MR. HOUSTON: May we have this marked as Plaintiffs' Exhibit 8.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 8.)

MR. HOUSTON: Your witness.

MR. O'DUNNE: No questions.

(Testimony of the witness concluded.)

CLARENCE J. ROBERTS,
2323 Ivy Avenue,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Roberts, are you employed in the school

system of Baltimore City?

A I am.

Q What school and what position?

A I am principal of School No. 103.

Q Which is located where?

A Division street near Lanvale, in the 1300 block
Division street.

Q What is the enrollment of your school?

A 799.

Q Of your pupils, can you give us approximately
the number who have to cross Druid Hill avenue or McCulloh
street to get to school?

MR. O'DUNNE: I object. I think it is irrele-
vant.

THE COURT: Do you mean now?

MR. HOUSTON: Yes.

THE COURT: Overruled.

A I have 285 children who must cross one or the
other of those two intersections, 285.

Q Do you have experience with McCulloh street
before it was designated an arterial highway?

A When was it designated? I have been at this school since 1947, September, as principal. I have had experience at School 125 in 1938.

Q May I ask whether this school No. 125 has the same crossing problem that your school No. 103 has?

A It does. It is located at Pennsylvania avenue and Dolphin street, so we have children coming from Brevard street or McCulloh, Madison, Jordan Street, and others.

Q Are you also acquainted with the flow of traffic on Druid Hill avenue?

A Yes, very much so.

Q I will ask you whether the traffic on McCulloh street flows faster than the traffic on the other streets which are not designated as ^{arterial} thoroughfares.

MR. O'DUNNE: Will you fix the time?

Q Now.

A As far as human judgment is concerned, I would say yes. It flows faster to my eye.

Q Would you say that the crossing hazards at uncontrolled crossings on McCulloh street would be greater than hazards of crossing Druid Hill avenue or any other

street at present for a school child?

MR. O'DUNNE: I object unless he qualifies as a safety engineer.

THE COURT: I think the question is leading anyway. I think you will have to reframe it. He is not a traffic expert. I think it should be put in the form where he can answer whether there is more or less traffic there or not. There are a number of factors that may enter into it, as far as his opinion, about the safety factor is concerned. I think he can testify to what he sees there every day. If there is more traffic on McCulloch street than on Druid Hill avenue or less, he can say so. I think he can testify to that. I don't think he can turn it into a conclusion.

Q Will you state which street carries the most traffic in the vicinity of the school?

A Which of the two streets?

Q Yes.

A McCulloch street carries the more traffic.

Q And at a greater speed?

A As far as I can judge, it certainly flows faster. I can make more time down McCulloch street when I

go to work.

THE COURT: I imagine that is why he goes there, isn't it?

Q You were present in Court and heard the testimony of Mr. Murphy as to putting up traffic lights at school crossings?

A Yes.

Q In your opinion as a school principal, charged with the safety of children, would they be adequate to protect your children in the case of the designation of Druid Hill avenue and McCulloh street as one-way streets, the lights alone?

(Question objected to)

THE COURT: I will sustain that.

Q Have you had the service of a traffic officer at your crossings for an extended period of time?

A At those two crossings or are you speaking of something else?

Q Those two streets?

A No, we have not had. I have had to go there or send a teacher or take some other means. We have not had service there.

THE COURT: Are you speaking of McCulloh street or Druid Hill avenue?

THE WITNESS: Yes, Lafayette and Druid Hill. Lanvale and McCulloh seems to be the worst point on account of the traffic light at Lafayette avenue. The motorists seem to want to make that light and it creates a traffic hazard ---

MR. O'DUNNE: I object to that, your Honor.

THE COURT: Strike that out.

Q Are there any special hazards at Lanvale and McCulloh streets?

MR. O'DUNNE: I object to that. That calls for a conclusion.

THE COURT: No, I think not.

MR. O'DUNNE: What is a special hazard?

THE COURT: I can think of some things.

MR. O'DUNNE: It is certainly leading.

THE COURT: If there is any special hazard there that he can give us, it is in the nature of a conclusion, but I will let him answer. Subject to exception.

A The particular hazard that bothers me, with

five and six year old children particularly, if they are not in company with their parents, is the car that comes out of McCulloch street into Lanvale when he wants to get across.

Q Is there any practice you have observed of motorists trying to beat the light or to make the light, to squeeze through a light when the light is changing?

(Question objected to.)

THE COURT: I will have to sustain that.

Q What have you observed concerning the motorists regarding the light signals?

(Question objected to; objection sustained.)

Q What are the recreational facilities in the area for the children when they are out of school?

A We have been granted permission to block off the bed of Division street between Lanvale and Lafayette, but only during school hours. I would say the recreational facilities are limited to a community house.

Q Does that community house provide adequate recreational facilities for the children in that neighborhood?

MR. O'DUNNE: That is a conclusion. I object to

that.

THE COURT: I will sustain that.

A Not by any means -- I beg your pardon.

THE COURT: Strike that out.

Q After school hours, are there any facilities for play in the school yards and any equipment?

A No, there is no equipment. The school yard is not fitted for recreation nor is there proper supervision.

Q Is there any place except this one community house for the children to play, any other place in the area except in the streets and the alleys?

A They make use of a little space there in the 1200 block of Etting street, but it is full of glass and dangerous. There, too, they get into trouble with the neighbors.

MR. HOUSTON: That is all.

MR. O'DUNNE: No questions.

(Testimony of the witness concluded.)

Thereupon - - -

FRANK J. SORRELL,
2503 Montebello Terrace,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Are you employed by the Public School System?

A Yes.

Q And your position?

A I am principal of School 137 located on Francis street facing Clifton avenue.

Q And your present enrollment is what, sir?

A 991.

Q Do you have students who are compelled to cross Druid Hill avenue and McCulloh street in order to get to and from your school?

A Yes, in the neighborhood of 250 children.

Q How long have you been in the area teaching?

A Since February, 1947.

Q Were you familiar with the area prior to February 1947?

A Yes. At one time I lived in the 2000 block

Druid Hill avenue.

Q Are you familiar with the traffic conditions on McCulloch street?

A I should say as a layman, from a layman's point of view, yes.

Q Can you tell us whether there has been any increase in the volume of traffic on McCulloch street since McCulloch street was designated as an arterial highway?

MR. O'DUNNE: I object to that. He should at least say has he observed it.

THE COURT: I think that is what he means.

A Yes. From my observation traffic has increased in the number of passing vehicles, has increased in great numbers.

Q What effect has that on the facility with which your students can cross and recross the streets?

THE COURT: I would think that would be obvious.

MR. HOUSTON: All right.

Q Have you had the service of an officer at the principal intersections which your children have to cross to go to school?

A No.

THE COURT: Where are those intersections?

THE WITNESS: One is at McCulloh and Whitelock street, another is at McCulloh and Cloverdale. The officer leaves there practically around 8:30. Now, on McCulloh street down below Whitelock street, until one gets to Lafayette avenue I have never seen a cop directing traffic for school children.

Q What about Druid Hill avenue, is there any traffic officer or policeman directing traffic to facilitate children crossing those streets?

A For twenty years I have never seen one above Lafayette avenue.

MR. HOUSTON: That is all.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q Mr. Sorrell, I just want to ask you about this increase of traffic on McCulloh street. Could you tell us in which direction it has been increased the most, going which way?

A I see it more frequently in the morning than at any other time.

Q Going down town in the morning?

A Going down town; yes, sir.

Q So that the greatest increase is going down town?

A Going south.

Q This figure of 250 children that you gave who have to cross McCulloh street to get to your school, is that an exact number or just round figures?

A Just round figures.

Q Just an estimate of yours?

A Yes, round figures would be an estimate.

MR. O'DUNNE: That is all.

REDIRECT EXAMINATION.

By Mr. Houston:

Q But you have made a check of your rolls, so that it is not based on simply a guess not supported by an inspection of the records?

A Yes, I have made an inspection of my records.

Q Have you made an inspection of the records in connection with the subpoena to testify in this case?

A Will you say that again?

Q Have you made an inspection of your records in connection with the subpoena to testify in this case?

A Yes. You would not call it an exact check. I took the rolls of twenty-four different classes and simply went down with my finger.

THE COURT: You prepared yourself to testify when you came here, didn't you?

THE WITNESS: Sure.

(Testimony of the witness concluded.)

Thereupon - - -

JESSE P. PEAKER,
421 Cummings Court,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Peaker, is not Cummings Court in the McCulloh street housing project?

A Yes, sir. That is in the McCulloh street hous-

ing project.

Q Are you president of the Parent-Teacher Association of School No. 122?

A Yes.

Q Will you state where that school is located?

A That school is located on Preston street, between Pennsylvania avenue and Druid Hill avenue.

Q Do you know the enrollment of that school?

A The enrollment of that school is 1381.

Q Do you know how many children have to cross Druid Hill avenue and McCulloh street in order to get to school?

A 502 children.

Q How long have you been acquainted with the traffic conditions on McCulloh street?

A Well, I have lived in the vicinity for the last seven years.

Q Was McCulloh street designated as an arterial highway within the last seven years?

A To my knowledge not until recently.

Q Has there been an increase in the volume of

traffic on McCulloch street since it has been designated an arterial highway?

A Definitely.

Q Have you observed any change in the speed with which traffic moves on McCulloch street since it has been designated as an arterial highway?

A That is obvious to all the people who live in the vicinity, yes.

Q You say obvious. Obvious as to what?

A Due to the fact you can hear the screeching of tires, and whatnot, therefore you know that the speed is much greater than it used to be.

Q What have you observed as to the experience of children in attempting to cross the street from McCulloch street and Druid Hill avenue on the way to and from school?

A It is a hazard for small children crossing those streets and quite a number of them have to cross both of them. Children crossing Druid Hill avenue and McCulloch street from No. 122, particularly at McCulloch street and Presstman street.

Q Has there been a traffic officer stationed

there at the times children have been coming to and from schools to assist them in crossing?

A During the last year there has been an officer at McCulloch street and Presstman.

Q Any place else?

A There is another at Pennsylvania avenue and Preston that takes care of school 122.

Q How long has he been there?

A A little longer than the other officer, approximately eighteen months.

Q Is there any at all at Druid Hill avenue?

A There is none at all at Druid Hill avenue.

MR. HOUSTON: Your witness.

(No questions.)

(Testimony of the witness concluded.)

Thereupon - - -

WILLIAM N. PARROTT,
1312 West Lanvale street,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Parrott, will you state whether you are employed in the Baltimore Public School system?

A I am.

Q And your position in the school?

A Principal of School 125, located at Pennsylvania avenue and Dolphin street.

Q What is your enrollment?

A 523.

Q Do any of your students have to cross Druid Hill avenue and McCulloh street to get to school?

A 147.

Q Are you familiar with traffic conditions on McCulloh street and Druid Hill avenue?

A Somewhat.

Q Since how long have you been familiar with those traffic conditions?

A I have spent practically all my life in that particular vicinity and I have been at the present school since 1942.

Q Were you acquainted with traffic conditions on McCulloh street before it was designated as an arterial highway?

A Yes.

Q What has been your experience as to the volume of traffic on McCulloh street after its designation as an arterial highway?

A From what I have noticed there has been a decided increase in the flow of traffic.

Q And what has been your observation as to the speed as to which traffic moved on McCulloh street?

A From a layman's standpoint, I would say there has been a slight increase in the rate of speed.

Q What are your principal intersections as to Druid Hill avenue and McCulloh street for students coming to your school?

A Lanvale and McCulloh, Lanvale and Druid Hill avenue, for those children coming this way, and Dolphin and McCulloh and Dolphin and Druid Hill.

Q Do you have the service of a traffic officer at any of those intersections?

A I have noticed in the afternoon there is an

officer at times located at Lanvale and McCulloh, but I have been through there in the mornings and I have not seen any officer on the intersections of Dolphin street or on Druid Hill avenue.

Q What about the traffic conditions in the morning as compared with traffic conditions at the time your school left out, which would, as you say, was more acute?

A I would say that the morning is more acute because it happens at the rush hours of folks going down town.

Q Are there any recreational facilities in the area of your school for children to play in out of school hours?

A Very few. We have a scattering of the folks who come into the school yards, but there is no recreational facilities planned for them and no supervision for them. The community house is located in the 1200 block Etting street, but that takes care of a handful, and we have one or two lots in that vicinity; but outside of that, no recreational facilities have been provided.

Q Would you say that the play time of the children has to be spent on streets?

A Decidedly so.

Q I mean in that area?

A Yes.

THE COURT: Isn't there a recreational area there at school 1227

THE WITNESS: There is, yes. They have a yard down there, but I find quite a number of children in the vicinity north of Preston street --- I am talking about elementary school children -- you will find the majority of kids who use that are in their teens or above sixteen. Right now, speaking of the children whose ages range between six and thirteen, you will find those children playing in the streets.

Q On top of that, as to the area which his Honor just inquired about, isn't it true that part of that area has been appropriated by the Government?

A That's right.

Q By installing Quonset huts?

A Yes, that's right.

Q So that space has been reduced?

A The size of that playground has been reduced.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q What time does your school open in the morning?

A We officially open at 8:45 and classes begin at nine.

Q So that all the children have to get there by 8:45 ?

A Yes.

Q So far as you know, it is the same situation with respect to other schools in that neighborhood, are they all required to get there by 8:45?

A Yes, that's right. In some instances, you may come across a school that is operating on part time or shift time, but as far as regular schools are concerned, they start at nine.

Q What streets do the children play on for the most part?

A I don't know. You will find as many on McCulloh street and Druid Hill avenue as you will find on Etting

street and other streets.

Q But they do play in the streets of McCulloch and Druid Hill avenue?

A Considering the number of children in that vicinity, I don't believe there would be one street up there that would hold them.

Q They do play on other streets beside McCulloch and Druid Hill avenue?

A Oh, yes.

Q With respect to your school yard, what did you mean when you said you don't have any recreational supervision or provisions?

A After school all that is there is the physical yard, no apparatus. When I said no supervision, during the summer some of those yards have been supplied with supervisors who will be there part time or full time, and there is no particular supervision in the yard that is open for the neighborhood children to go in.

Q As far as equipment is concerned, there is none in the yard because the school does not supply it?

A That's right.

REDIRECT EXAMINATION.

By Mr. Houston:

Q How large is your school yard?

A Well, I will give you some idea. We had to stagger our recess periods so that there would be no more than three classes on yard time at any one particular time.

Q And three classes would amount to how many children?

A Three classes approximately forty children per class.

Q So how many recess periods do you have to have in your school?

A We begin to have recess at ten and with eighteen classes will give you some idea of how many. We have to have at least six.

Q Six recess periods because of lack of space?

A That's right.

MR. HOUSTON: That is all.

THE COURT: Don't some of your pupils come from down around Perkins Springs Square?

THE WITNESS: Very few.

THE COURT: They come the other way. Do you mean they come from the other way instead of down around Perkins Square?

THE WITNESS: Yes, that is right. You see, we have a number of schools in that general vicinity that draw children from the same general neighborhood. Just like I have very few children who attend the schools who come from South of Dolphin street because No. 122, Preston street school, draws them in.

MR. HOUSTON: All right.

(Testimony of the witness concluded.)

MR. HOUSTON: If your Honor please, I apologize to the Court, but I think I can establish the platoon system or shift system by Mr. Roberts, and I would like to recall him just for that question.

THE COURT: Very well.

Thereupon - - -

CLARENCE J. ROBERTS,

a witness heretofore produced, sworn and examined on

behalf of the plaintiffs, being recalled, testified further as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Roberts, you are under oath as you have already testified. Are any classes in your school on an afternoon shift?

A We have two classes on an afternoon shift.

Q Will you tell us what two classes they are?

A They are 1-B classes and beginners, six year old children.

Q What time does that class leave out?

A It dismisses at quarter after four.

Q Is that a time within which the afternoon traffic has begun to increase?

A We have to go to the corner with them because we notice that it is a little heavier. It is heaviest round about four-thirty, but the children take a little time to get up to that point. They have some difficulty because of the increase of traffic unless the parents come for them.

Q You also have a morning shift class, do you not, which comes in at eight o'clock in the morning?

A We have two classes morning shifts, they are 1-B classes, six year old children also.

Q So that the youngest children are the children who are most exposed to the rush hour traffic, is that right?

A These children go to school at quarter of eight until twelve o'clock.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q How old are these children?

A They are six years old, out in the kindergarten.

Q Do they come to school by themselves?

A A number of them come by themselves, but because of the traffic conditions, parents usually try to make it a point to come with them.

Q But they come in groups usually, don't they, with one parent leading a large group?

A We have to make those arrangements, it is a hardship on the parents.

Q But you do make those arrangements?

A Yes, but it is an extra thing we do.

Q What did you mean when you said in the afternoon you had to go to the corner?

A I have to go up to the corner. I have to leave my office and go out to see because I don't like to keep my teachers there after the regular hour. They have their work to prepare for the next day. Some of them are gone at four o'clock and it is up to me, it is my responsibility to see that those children are safely home.

Q You go to the corner to see that they get across the street all right?

A Yes. Sometimes I go as far as McCulloh street. Sometimes I drop them home in bad weather.

Q These that get out at quarter after four, what time do they come to school?

A They come to school one o'clock--- I beg your pardon, they come to school a quarter after twelve, so there is a group practically coming to school while we are dismissing for the lunch hour at twelve o'clock.

(Testimony of the witness concluded.)

Thereupon - - -

MISS AIMEE WEBER,
2634 North Charles street,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q How long have you lived at your present residence?

A Since 1933, February 16th, 1933.

Q Where is your residence with reference to St. Paul street?

A I live on Charles street, which runs parallel to St. Paul street.

Q Is Charles street near St. Paul street?

A Charles street is one block west of St. Paul street. Charles street is the dividing line of the city between east and west.

THE COURT: Mr. Houston is from Washington. He does not know too much about the city of Baltimore I suppose.

Q And Calvert street is where with reference to your residence?

A Calvert street is two blocks east of Charles, North Charles.

Q Miss Weber, were you acquainted with St. Paul and Calvert streets before they were designated as one-way streets?

A Yes.

Q Have you had occasion to observe the conditions on St. Paul and Calvert streets since they have been designated as one-way streets?

MR. O'DUNNE: Your Honor, I'm going to object to that. I think that is completely collateral. It could only be to impeach his own witness or to impeach a witness on a collateral matter or to go into something that has no relevancy with Druid Hill avenue and McCulloh street.

THE COURT: I think what is sought to be done is to make some comparisons. I cannot tell, of course, and nobody can tell just how much traffic there will be on McCulloh street and on Druid Hill avenue if and when this change takes place, but it may not be inappropriate .

to think it might increase or decrease with respect to the other streets further east.

MR. O'DUNNE: I did not know the case was being tried on the theory that the traffic might increase.

THE COURT: I will give you an exception on it.

(Question read by the reporter.)

A Yes.

Q Will you state what has happened?

A Traffic has increased very considerably.

The people have been subjected to things in the way of noise and dust, heat, fumes from the gases, that have made their lives miserable, and many, many of them have moved. I remember distinctly that Mr. Tillman, who was president of the University Heights Improvement Association, moved very shortly after Calvert street was made a one-way street. It was impossible to sleep. People sleep with their windows closed which is certainly ---

MR. O'DUNNE: I object to this. It has to be hearsay, your Honor.

THE COURT: You could only know what Mr. Tillman told you.

THE WITNESS: Yes, he told me.

THE COURT: I will have to sustain that.

Strike that out.

Q Do you know anything concerning the speed of the vehicles?

A Yes. Very recently I was on St. Paul street at 26th street ---

Q Do you drive your own car?

A I drive my own car. I don't travel on St. Paul and Calvert streets because I consider it very dangerous. I am afraid to travel on them. I was almost killed on St. Paul street the first night it was instituted one-way street, so I go up the Fallsway. What was your question?

(Question read by the reporter.)

A Yes. I was standing on the corner of St. Paul street and 26th street about two weeks ago and the automobiles were speeding at least forty miles an hour, judging from driving myself.

THE COURT: How many years have you been driving?

THE WITNESS: Since 1930 I think.

THE COURT: I think you are qualified to estimate speed under the Maryland rules.

THE WITNESS: I have the feeling how fast they were driving.

THE COURT: Do you think they were going forty miles an hour?

THE WITNESS: I certainly do.

THE COURT: All of them?

THE WITNESS: They were going as fast as they could, and I called up Captain Forrest.

THE COURT: What street were they on?

THE WITNESS: On St. Paul street at five o'clock, up near 25th street, right at the school.

THE COURT: Don't you know what those lights are set for?

THE WITNESS: The lights are set for twenty-five to twenty-eight.

THE COURT: Did you see any of them go through red lights?

THE WITNESS: No, I didn't see any of them go through red lights. But they stepped on the gas when that light begins to turn, they step on the gas and they don't take their foot off the gas, I think, until it hits the

next light.

Q Did you make any complaint to the Police Department?

A Yes, I did. I called up Captain Forrest and had a very nice talk with him. I tried to find out what had happened, why they were going so much faster than they did when the streets were first made one-way streets. I asked him if the timing had been changed. He said no---

MR. O'DUNNE: I object to what he said.

THE COURT: Strike it out.

MR. HOUSTON: May it please the Court, since this is an action against the city, I have been advised that the Captain she talked to was the Captain who was in charge of traffic.

THE WITNESS: Yes.

MR. HOUSTON: If that is so, I respectfully submit that he is an agent who is discussing with a citizen the scope of his authority, and certainly what he would say in his official conversation with a citizen is admissible as against the city.

MR. O'DUNNE: The City has no power over the Police Department.

THE COURT: I will have to rule against you there and sustain the objection.

THE WITNESS: Your Honor, could we ask Captain Forrest to come and tell what he said?

THE COURT: Mr. Houston has all the powers of the Court to compel him to come, but I think if you called him on the telephone, he would come.

MR. HOUSTON: That is all.

MR. O'DUNNE: No questions.

(Testimony of the witness concluded.)

Thereupon - - -

MISS JOYCE BARKER,
1710 St. Paul street,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Miss Barker, how long have you lived on St. Paul street?

A. Since 1926.

Q You were living on St. Paul street before St. Paul street was designated as a one-way street?

A Yes.

Q Can you tell us whether you have observed any changes in St. Paul street since its designation as a one-way street?

A Yes, there has been a great change.

Q Will you give his Honor the nature of the changes you have observed personally?

A Well, there are more vehicles, a great many more vehicles, and the speed is greater. There is more dirt blown into the houses on account of so many vehicles and speeding so fast, and they come closer to the houses. One time last winter, when there was a snow and slush, melting snow on the street, to give an example of how close the vehicles do come, I was walking on St. Paul street, and although as close as I could get to the houses, I was splashed with the muddy slush. And making these streets one-way has enabled the Transit Company to put the buses there, which are a great annoyance on account of the fumes and noise, earsplitting noise, and in summer time we have to

keep our windows closed all the time on the street on account of the bus noise and the horns from the automobiles. They are continually blowing, evidently from cars going from one lane to another. Anyway, there is a great deal of horn blowing. We have to have our windows closed all the time in the summer time, and, of course, in the winter.

Q Are there any trucks on the street late at night?

A There are trucks on the street all the time. They jar the houses so that the new plastering we had put on our front room recently has cracked all over from the jarring from the trucks. You can feel the house just vibrate.

THE COURT: What is your number?

THE WITNESS: 1710.

Q In addition to the vibration, do the trucks create any problem as to noise in the late hours, either stopping or starting?

A Do you mean are they bad the whole twenty-four hours or worse at night?

Q I mean especially at night is the effect on

the people trying to sleep any greater with the heavy truck traffic at night, big trailer trucks coming by?

A Greater than before the conversion, do you mean?

Q Yes.

A Yes.

THE COURT: You don't live very far from the Pennsylvania Railroad, do you?

THE WITNESS: No, a block and a half.

THE COURT: Isn't it the first block above the bridge, isn't that the 1600 block?

THE WITNESS: 1600 and we are in the 1700 block.

THE COURT: Five houses above Lanvale street?

THE WITNESS: Yes.

THE COURT: Don't those trains ever disturb you going through there?

THE WITNESS: Well, nothing compared with the traffic on St. Paul street.

Q (By Mr. Houston) What has been the effect of designating St. Paul street a one-way express way so far as desirability of continuing to live there as a residence?

MR. O'DUNNE: Your Honor, I would like the

record to show my objection goes to this question and all questions in that regard.

THE COURT: I will sustain that.

Q Has there been any greater movement of residents on St. Paul street after the designation than before as to rate of changes of people living there?

(Question objected to; objection sustained.)

Q Is your house as desirable as a residence location now as it was before?

(Question objected to; objection sustained.)

A Could I add something to the question?

THE COURT: You will have to wait until counsel asks you a question.

Q You have testified as to the changes in conditions on the street before and after conversion. Has that had any effect on your personally?

(Question objected to.)

THE COURT: What, if any effect, has the change made so far as you personally are concerned?

MR. O'DUNNE: May I have an objection?

THE COURT: I will give you an exception.
I think you have covered it, but you may answer it again.

THE WITNESS: I did not cover the parking part. That is what I want to say.

THE COURT: You may say what you want to say with reference to the parking.

THE WITNESS: We have been cut off from parking during rush hours. We have no parking at all during rush hours, and it is limited at other times, and we rent an apartment in the house, the upper floor, and we have had tenants move because they don't have any place to put their car. They could not park and moved on account of that, besides the noise. You don't want me to answer the question about whether I want to move myself?

THE COURT: No.

Q (By Mr. Houston) I was asking you what effect has it had on you living there on St. Paul street, after the designation of St. Paul as a one-way street, what effect has it had on you individually living there after its designation as a one-way expressway?

(Question objected to.)

THE COURT: I asked her the question and she answered it. I think I asked her practically that ques-

tion.

(Question read by the reporter.)

Q Now, is there anything else you want to say about it?

MR. HOUSTON: May I ask this with reference to her desire of continuing to live there?

THE COURT: No, I will sustain that.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q Where did the tenants use to park before the street was made one-way?

A They could park at certain points on that street.

Q Did they bring their cars in at night?

A What was your question?

Q Did they all have garages?

A No.

Q What did they do with their cars at night?

A Well, there were certain hours they could park there.

Q During the night?

A Yes.

Q And there were certain hours they could not park there during the night too, weren't there?

A Yes, but I know that it is a fact that they could park before. I don't know whether they moved it around once during the night, but they were parked there.

THE COURT: Do you mean they got up in the night and moved their cars?

THE WITNESS: I think for seven or eight hours you could park.

THE COURT: Or do you mean that they came in so late they did not have to move them?

THE WITNESS: You see, the place, on account of that parking being eliminated, parking on the other streets where you can park are so filled up, there isn't any room.

Q As a matter of fact, hasn't parking always been, certainly for a number of years before the street was made one-way, hadn't parking always been forbidden at certain hours in the morning on the west side of St. Paul and at certain hours in the evening on the east side of St. Paul

Street?

A Not both sides at once though; oh, no. I happen to be a music teacher and I have a great many children coming at the hours when we have the rush hour, and those who are brought by automobile have to cruise and cruise in order to find a place to park, which does affect me greatly. It seems to be getting worse and worse.

(Testimony of the witness concluded.)

MR. HOUSTON: If your Honor please, I think we can expedite this by taking one or two persons who are owners, then I think we can stipulate that the rest of them would testify the same way. I will put Mr. Mitchell on next, and that will take a considerable length of time. I would like to complete it at one time and have the cross-examination over. If your Honor wants to adjourn now, I think by going over some of this testimony I can shorten it considerably.

THE COURT: Very well, then, suppose we adjourn this case until tomorrow morning at eleven o'clock.

(Thereupon, at 3:30 p. m., an adjournment was taken until 11 o'clock tomorrow morning.)

Mr. O. Danne

STENOGRAPHIC RECORD

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY

Docket A-297, 1948

IN THE MATTER OF

R. GARLAND CHISSELL,
et al.,

vs.

THE MAYOR AND CITY COUNCIL
OF BALTIMORE, a Municipal
Corporation

Before: MASON, J.

December 22, 1948

January 12, 1949.

SECOND & THIRD DAYS' PROCEEDINGS

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TRANSCRIPT FROM NOTES OF

CLARENCE P. GOETZ

Official Court Reporter

EQUITABLE BUILDING
BALTIMORE, MD.

OFFICE AND HOME
TELEPHONES

I N D E X

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IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY.

Docket A.-297, 1948.

R. GARLAND CHISSELL,
et al,

:

vs.

:

BEFORE: MASON, J.

:

THE MAHON AND CITY COUNCIL
OF BALTIMORE, a Municipal
Corporation.

:

December 22nd, 1948.

Pursuant to adjournment, hearing in the above
entitled cause was resumed on Wednesday, December 22nd,
1948, at 11 o'clock a. m.

Present: Counsel for the respective parties.

MR. HOUSTON: If your Honor please, I would
like at this time to introduce into evidence as our exhibit
the Ordinance 169, which was originally introduced in
the City Council as City Council Proposal No. 378. I
should like also to introduce copy of The Riders Digest,
which it was testified did contain the plan that the Tran-
sit Company had submitted to the City.

THE COURT: Very well.

(Documents referred to offered and received in evidence as Plaintiffs' Exhibit 9 and Plaintiffs' Exhibit 10, respectively.)

Thereupon - - -

CLARENCE MITCHELL,
1324 Druid Hill avenue,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q You are a native Baltimorean?

A I am.

Q How old are you?

A Thirty-seven.

Q Have you been acquainted with this area all your life?

A I have.

Q Have you lived in it or near it all your life?

A The majority of my life I have lived in that

area.

Q You are a graduate of Lincoln University, with an A.B. degree in 1932?

A That is right.

Q You came back here and was city reporter for the Afro-American in 1935?

A 1932.

Q From 1932 to 1935?

A The year I was graduated.

Q Then you went to Atlanta School of Social Work for graduate work from 1936 and 1937, in 1936 and 1937?

A On a Fellowship.

Q After that you were secretary of the Urban League at St. Paul, Minnesota, from 1938 to 1941?

A That is correct.

Q You gave special attention to housing service during the time you were in St. Paul, Minnesota?

A That was one of the major problems which we were trying to get, housing problems through the State Legislature.

Q Well, you made a housing survey in St. Paul, Minnesota?

A I did.

Q You also took graduate courses in the University of Minnesota while you were there?

A That is correct.

Q Then you came back to work in Washington in 1941, in the Labor Division of the OPM under Sidney Hillman?

A That is correct.

Q After that you were the F.E.P.C. director of field operations for the N.A.A. C. P.?

A That is right.

Q And you made a study of housing in Portland, Oregon, in connection with the shipyards?

A That is correct, in connection with a recreation program of the negro population.

Q And you have been N.A.A.C.P. secretary since 1946?

A That is right.

Q How many children do you have?

A I have three children.

Q Two of school age?

A Two of school age.

Q Do you know the total number of children in these areas?

A There are approximately 7,000 children of school age in that area.

Q Do you arrive at that from an analysis of a study you have made of the United States Census?

A That is right, based on the census.

Q Will you check that for us and see whether it is 7,000 or 14,000?

A The total school enrollment in that area is 7,000 in the nine schools we are concerned with, and 4,000 approximately of those children cross these streets which are marked for speedways.

Q And also there are about 14,000 total in the area, are there not?

A There are approximately 12,000 children in the area, according to the census tract, 8,000 of them or more from one year up to fourteen years of age.

Q This area which we are talking about from Dolphin street north, Druid Hill avenue and McCulloh street, has that been considered perhaps the best negro area in

Baltimore?

A It has been so considered ever since I can remember.

Q What is the situation so far as the negro area expanding?

A The area is hemmed in pretty much by various actions on the part of property owners in the surrounding areas. For example ---

MR. O'DUNNE: I object to that. I think that is a legal conclusion.

Q Was there a survey made by the Government?

THE COURT: I think the survey by the Government would be the best evidence of that.

Q The question is, was there a survey, and as the result of the survey, was there immediately a reaction of resistance by the property owners to the east of the negro area?

A That is correct.

MR. O'DUNNE: I object to that. That is a legal conclusion.

THE COURT: I will sustain that. I will give you

an exception on that.

Q Is it possible for the area to spread to the north?

(Question objected to; objection sustained.)

Q Is there a concentration of schools in that area?

A There are nine schools in that area, which is, according to the census information, one of the most densely populated areas per acre in the city, the most densely populated.

Q Is that according to a study made by the city itself?

A It is a study made by the city itself, based on information which apparently they got from the Bureau of Census and its redevelopment of blighted residential areas in Baltimore, July 1st, 1941, of the Commission on City Plan.

Q Will you state whether there has been any change in the traffic on Druid Hill avenue that you have observed since the passage of this ordinance?

A There has been a considerable increase in the traffic, particularly of trucks, apparently under the im-

pression that it is already a speedway because they move with great rapidity there, and it is especially noticeable in the houses when one is trying to sleep.

Q What does it do to a person trying to sleep or what does it do to you?

A As far as I am concerned, it makes life pretty miserable. It keeps me awake all night from the noise. The trucks come down and stop, say at the intersection of Delphin and Druid Hill, which is about a block and a half away from my house, and when they begin to start up again they make an awful noise at that time of the morning, and the southbound trucks stop at the intersection of Lafayette and Druid Hill avenue because the cross traffic there is usually heavy even late at night, and when they start up, there is more noise and of course worse because it is closer.

Q What about buses?

A We have noticed as far as the bus traffic is concerned it is much more speedy than the street cars were and a greater hazard to the children playing on the sidewalks, in that the street cars, as fixed wheel traffic,

could not vary out of their road bed, but the buses switch back and forth in an effort to get in front of other traffic and they are always operated at what appears to be a very excessive speed.

Q Have you paced any of these buses or cars?

A I have, because it has been my experience in going to work in the morning -- my office is in Washington, your Honor-- and I walk to the station in the morning, going out Lanvale street, and it is necessary for me to cross McCulloh, I have been doing it for the last three or four years, and always there has been an awful lot of traffic there and everybody is going fast, so I decided I would make an effort to pace that traffic and see how fast it was going, and on two days, one in October and one in November, I got in my car and followed some of those automobiles down the street, and I went the limit of about thirty or thirty-five miles an hour, and everybody left me way behind.

THE COURT: This is on McCulloh street?

THE WITNESS: On McCulloh and Druid Hill avenue, I paced them on both streets.

THE COURT: Is Druid Hill avenue a boulevard

also?

THE WITNESS: No, there is a marker at Dolphin and Druid Hill and at that point it makes it a through street, and a lot of the people are of the impression that the whole thing is a through street and there is an awful screeching and grinding of brakes.

Q Do you have any policemen at the intersections for the school children?

A There has never been any policemen at the intersection of Lanvale and McCulloh streets. And at Lafayette and Division street prior to the time that our neighbors up there had gotten interested in this whole problem. I have observed school children, at the peak of the school hours, getting off the buses at Dolphin and McCulloh and crossing at Lanvale and McCulloh virtually fighting their way across the heaviest waves of traffic, and the only way they could get across was to get together and go over in groups. Lately part of the time there have been policemen there.

Q Tell us something about the matter of school children playing in the streets. What about the recreational

places in that area?

A There is practically no recreational space, there is only one school in that area which actually is used as a recreation center out of those nine, and that area, which is down on Preston street near Druid Hill avenue, was subtracted from by the addition of some Quonset huts which were built by the Government for vocational training. Mrs. Mitchell made some effort to get some recreational activity started across the street from us and went out among our neighbors to solicit funds for the purchase of the school equipment which was to be placed in the school yard. The city let the thing operate for about one summer and thereafter it ceased altogether. Up on the northern end of it, there is a so-called playground for children, which is at present on the east side menaced by the northbound traffic that comes up from McCulloh street, and if this southern speedway is opened, it will effectively isolate that playground on the northern perimeter of this area and make it necessary for children who cross there to cross that speedy traffic on the east and the west, and the traffic will converge at either end, so there is no way of getting across there. I have

frequently taken my children to the park for various outings and crossed that area, and as it is now situated it is virtually impossible for me, an adult, to get across there now. I just shudder to think of what will happen to the children.

Q Has there been a fatal accident up there by that playground?

(Question objected to; objection overruled.)

A There has been a fatal accident. Last year a child attempting to go over there on a bicycle was killed.

THE COURT: That is near Druid Hill Park.

THE WITNESS: That is the playground I just referred to at Cloverdale and Druid Hill Park.

THE COURT: Where the old men used to play croquet over there, isn't it?

THE WITNESS: Approximately, your Honor.

Q Have you seen any accidents on Druid Hill avenue from buses?

A Yes, I have seen several and one in particular I saw last summer. There was a child riding down the street on a bicycle and when she got to the intersection

of Lafayette and Druid Hill, a bus which was coming south-bound on Druid Hill struck her from behind. I believe she wasn't very far from the curb, as close as she could get to the curb because there were cars parked between her and the actual curb, and a bus knocked her off the bicycle and while she was lying on the ground the driver got out and took her ---

Q Well, you can skip that. Were your taxes increased for 1947?

A Yes, they were.

Q By how much?

A By approximately \$34.

Q I will ask you if you have your bills prior to the increase and the bill after the increase?

A I do.

Q What was it before the increase?

A Before the increase it was \$128.17.

Q And after the increase?

A \$162.93.

Q Let me ask you if it were not for the matter of this designation of Druid Hill avenue as a one-way expressway, you would protest that increase?

A No, I want to carry my share of the burden of the city expenses, I have no objection to paying it as long as I am not penalized by some nuisance in front of my house.

THE COURT: What is the number of your house?

THE WITNESS: 1324 Druid Hill avenue, just approximately in the middle of the block.

Q Would you have protested within the twenty days provided by the statute, if this Druid Hill avenue had at that time been designated as an expressway?

(Question objected to.)

A I most certainly would.

THE COURT: That is certainly bad on form.

MR. O'DUNNE: I did not object to the leading form of it, but I do object to the relevancy.

THE COURT: It is probably relevant. If you have no objection to the form, I will let him answer.

MR. O'DUNNE: No objection to the form.

Q What is your answer?

A Will you repeat that?

Q The question is, if Druid Hill avenue at that time, at the time the assessment was increased, had been

designated as a one-way street, would you have protested the increase within the twenty days provided by the law?

A I most certainly would have, your Honor, because I consider that a real penalty and a nuisance and a hazard so far as the children are concerned.

Q What is the effect on you and the use of your property, as a resident, as the result of this designation?

A Well, it makes it necessary for me to consider two things. Either decide whether I am going to suffer a nervous breakdown because of the possible accidents which might involve my children or other children in the neighborhood that I have come to know and I am fond of, or consider the possibility of moving out of the city or into some other area, and I am pretty much stopped from either of the latter alternatives because, first, in Baltimore there is no place I can move, and, second, in Washington I have not been able to find anything there that is reasonably within my means.

Q Are there any front yards on that street?

A There are no front yards on that street.

Q How wide are the sidewalks?

A Approximately seven feet from step to curb, and

maybe two feet more if you include the building line.

Q And from the curb to the steps it would be about what?

A That is only four feet.

Q Would that be the only place the children have to roller skate?

A As far as I know, they have no other place to play but on the sidewalks. In my case, I have spent about \$300 trying to recondition my back, which is not as large as this court room, so my children would have a place to play, and it is impossible to use action toys there like bicycles and skates, which children need for muscular development.

MR. HOUSTON: All right. Your witness.

MR. O'DUNNE: No questions.

(Testimony of the witness concluded.)

Thereupon - - -

HONORABLE THOMAS D'ALESSANDRO,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Mayor, how long have you been in office?

A About eighteen months.

Q Before that you were a resident of Baltimore, were you not?

A All my life.

Q Are you acquainted with the area of Druid Hill avenue and McCulloh street?

A Yes, sir.

Q And you are acquainted with the density of population there?

A Yes.

Q Does that area have just about the densest population area in Baltimore?

A I don't know. I would have to make a survey of the whole city to find out.

Q Do you remember whether there has been --

A Down where I live you will find it very heavily populated.

Q Do you remember there has been a redevelopment

study by the Commission on City Plan on July 1st, 1945, are you familiar with that?

A No, I am not.

MR. BIDDISON: This is three years ago.

Q You have never seen this?

A I probably have seen it, but I don't have time to read all of those reports. If I did, I couldn't do any work. I get reports every day.

Q Is the area around Druid Hill avenue and McCulloh street very densely populated?

A I would not say very densely, it is densely populated, but not very densely.

Q What about the recreational areas?

A You will have to get hold of the Director of the Park System. It is impossible for the Mayor to know all of those things. You are probably going to ask me about the Police Department. I can't coordinate all of these things. I am Mayor and all I have to do when these matters come before me is to use my best judgment.

Q Mr. Mayor, the program to make Druid Hill avenue and McCulloh street one-way streets came before you, did

it not?

A Yes, it did.

Q And you made a study of that before you gave your approval?

A Yes.

Q Did you know the origin of the plan came from The Baltimore Transit Company?

A That plan was adopted in the previous administration after a thorough study, then it was brought before me.

Q I asked you if you know the origin of it isn't in connection with The Baltimore Transit Company?

A No, I did not.

Q Did you know it was part of the plan for the reconversion of traffic from fixed wheel traffic to free wheel traffic by The Baltimore Transit Company?

A I think it was a plan to help solve the traffic situation not only in that section but throughout the city.

Q Mr. Mayor, in giving consideration to the matter of designating a street one way or one-way expressway, consideration would normally be given to the citizens who are residents along the way, would it not?

A We always give consideration to the citizens. I gave them a hearing in my office before I signed the bill.

Q Didn't you tell the people who conferred with you in your office you could not do anything with it inasmuch as the bill was your measure?

A That is not so.

Q Do you remember Mr. Milton Brown?

A Yes, I remember him, but I did not say it was my measure. I just told you no, that it was a baby of the previous administration.

Q Did you tell Mr. Brown you could not veto it because you had asked for the ordinance?

A That isn't so.

Q Did you tell Mr. Brown that you could not veto it because the city had already spent \$400,000?

A That is right -- I did not say the amount of money. I made a statement which I would like to read, if the Court permits.

Q Will you let me finish my question?

A All right.

Q Did you make a statement to Mr. Brown --

A I never made a statement to Mr. Brown at any time. I spoke to a group of people. Mr. Templeton was head of the Committee.

Q Did you make a statement to a group, of which Mr. Templeton was the head, and at which Mr. Brown was present, in which you said you could not veto this because the city of Baltimore had already created a dual highway through the western end of Druid Hill Park and that dual highway would be of no use to the city unless ---

A I believe I did say ---

Q I have not finished.

A I said at considerable expense to the city too---

Q I still have not finished.

A I cannot answer that. I am not that good, Mr. Houston, for you to talk for a half hour and then answer your question.

THE COURT: I think, Mr. Houston, the Mayor thinks you are asking too many questions at one time. Just read so much of the question that has been asked, then see whether it is a proper place to terminate it, and maybe split it a little bit.

(Question read by the reporter as follows):

Q Did you make a statement to a group, of which Mr. Templeton was the head, and at which Mr. Brown was present, in which you said you could not veto this because the City of Baltimore had already created a dual highway through the western end of Druid Hill Park and that that dual highway would be of no use to the city unless --

THE COURT: Now, then, Mr. Houston, complete your question.

Q --- unless Druid Hill avenue and McCulloh street were designated one-way expressways?

A I believe I did.

Q Now, may I see what you are about to read.

A It is the statement I made when I signed the ordinance.

Q Was that the statement which you made when this delegation was before you?

A That is right.

Q Did you read that written statement at the time, sir?

A Yes, sir, not only the statement but they asked me -- at the time I told them I was going to sign the bill.

they asked me if they could come back -- they appeared to be satisfied and would not go to court on a bill, and later on they told me they would probably come back in the way of more traffic regulations, playground facilities and other improvements there to help control the situation, and I told them they could come back at any time, that I would be willing to give them a hearing and if I could help improve the conditions at any time in that location, I would be glad to do it.

THE COURT: Mr. Houston, do you want his Honor, the Mayor, to read that statement?

MR. HOUSTON: I have no objection to his reading the statement, your Honor.

THE COURT: He said he wanted to read it. You have him under examination.

MR. HOUSTON: I have no objection to his reading the statement.

THE COURT: All right, Mr. Mayor.

A (Reading): "I will sign ordinance No. 378, making Druid Hill avenue, from Fulton avenue to Eutaw street, Paca street, from Druid Hill avenue to Franklin street, McCulloh street from Eutaw street to Cloverdale

Road, and Auchentoroly Terrace, from Holmes avenue to Fulton avenue, one way streets for vehicular traffic.

"The enactment of the bill in question was a clear necessity in view of the urgency of the situation relative to the traffic problem in the northwest part of the city which links Druid Hill avenue with McCulloh street with the dual highway that has been built along the southwestern perimeter of Druid Hill Park. The City ^{spent} has/considerable money to provide new roads through Druid Hill Park, but as I stated before, these are useless and remain clogged until the principal thoroughfares feeding them are fitted into the integrated street plan which was adopted after mature consideration. The ordinance, as enacted by the Council with its various amendments, was legislated only after the objections raised by those who opposed the bill had been carefully considered and weighed. Recently I conferred with Captains Kaste and Schmidt of the Police Department with regard to the safety measures that must be provided for the residents of the area. It was agreed that every consideration would be given to all valid complaints. Some of the questions discussed were

the following:

1. The Police Department assures the installation of traffic signals at suitable intersections, thereby making it less hazardous to both school children and adults alike. Further, motorcycle officers will patrol these streets.

2. The Director of Public Works informs me that the streets will be adequately relighted almost the entire length of the two thoroughfares which will afford ample lighting of the streets and at the same time not cause annoyance to the people in their homes. The Director further states that Druid Hill avenue will be resurfaced in such a manner as to reduce noise very materially.

3. Parking facilities have been provided on each of these one-way streets granting the right to park on one side to a non-restricted extent. On the restricted side of each street the restrictions will apply only between 7:30 and 10 a. m., and between 4 and 6 p. m.

As Mayor of Baltimore City I must necessarily deal with this and related problems from the point of view of the entire city rather than from a sectional viewpoint. While I can appreciate and am fully cognizant of the fact

that traffic on Druid Hill avenue and McCulloh street will become increasingly heavy after the new plan, I am of the firm conviction that Ordinance No. 378 which now becomes law, will materially aid the traffic situation not only in the heavy populated northwestern section of the city but will synchronize with the entire plan for moving vehicular traffic, thus linking northwestern Baltimore with the central part of the city."

Your Honor, I made that statement after that hearing and took into consideration the objections the people made there, and particularly the matter of the lights and policemen patrolling the streets, and they wanted a statement of this kind. They left my office satisfied, at least, partly satisfied, that they would not go into Court, and it was some time after -- it was not the next day or the next week, but quite a long time after that, they went into Court, to my surprise, when I read it in the paper.

Q Let me ask you if Mr. Smith was there?

A He was there.

Q Mr. Mayor, this is an unsigned statement or this release?

A To the papers, yes, all the papers had it.
Your paper had it.

Q It was sent out over your signature to all
the papers?

A Yes, sir.

Q What day was it sent out?

A The day I signed the ordinance.

Q You are very positive that you read a prepared
statement to that committee and that this is the prepared
statement?

A The prepared statement was written when I signed
the ordinance. I spoke to that committee and told the
committee I would take up any of their objections and I
read that to them, the remarks they made and I made.

Q I entirely misunderstood you, then, because I
understood what you have said -- Mr. Reporter, will you
read back there as to whether his Honor said he read that
statement to the committee?

A I did read the statement to the committee. It
might not have been word for word that statement.

Q I thought I asked you whether that was the

statement that you read to the committee.

THE COURT: I was under that impression at first, but I reached a little later on the conclusion that he made a statement to the Committee, and that it was the substance of what he read here.

THE WITNESS: That is right, Judge.

THE COURT: I thought he said, when he started, that this is what he read to the committee.

THE WITNESS: That is right, Judge.

MR. HOUSTON: I would like very much to clear that up.

THE WITNESS: I have cleared it up ---

MR. HOUSTON: Let me have it from the reporter, not from you, but from the reporter.

(Testimony read by the reporter as follows):

"Q Now, may I see what you are about to read?

"A The statement I made when I signed the ordinance.

"Q Was that the statement which you made when this delegation was before you?

"A That is right.

"Q Did you read that written statement at the

time, sir?

"A Yes, sir, not only the statement but they asked me -- at the time I told them I was going to sign the bill they asked me if they could come back -- they appeared to be satisfied and would not go to court on a bill, and later on they told me they probably would come back in the way of more traffic regulations, playground facilities, and other improvements there to help control the situation, and I told them they could come back at any time, that I would be willing to give them a hearing, and if I could help improve conditions at any time in that location I would be glad to do it."

THE WITNESS: At that point, your Honor, there were two meetings. Mr. Templeton was there at one meeting, then I think the Councilman Edelen was there. When this was read over to another group, it was not a large group, it might have been one or two of a committee. It has been so far back I don't remember. I know the statement was made before a group. I don't think it was made the first time because I had an open hearing and I was prepared for them when they came the second time, and that is when I read "I will sign the ordinance." I thought I was taking

in the objections and satisfying them by putting it in writing that the city would see to it that the police department would patrol the street and the lights would be placed and it would be well illuminated, and we would take every precaution to protect the children of that district. They left and they said, "Can we come back again, Mr. Mayor?" I said, "Of course, if this thing becomes a traffic hazard my job is to protect the life and limb of every one," and with that they went out and I thought they were satisfied.

Q Who was it you told about this matter of coming back, about the matter of protecting the life and limb of the children?

A I think it was the time that Mr. Templeton was there and I think Mr. Brown was there and the gentleman you pointed out was there, I am sure they were there.

Q After that conference, what steps did you take to check up on the matter of protecting these children?

A That is when I called in Captain Kaste and Captain Schmidt and the director of Public Parks and the Engineering Department.

Q Will you tell us, please, what was the date

that the Committee came in to see you, if you remember, in relation to the day you signed the ordinance?

A I would not remember the dates.

Q Mr. Mayor, are you a member of the City Planning Commission?

A Yes, sir.

Q I will ask you if you were a member of the City Planning Commission on November 12th, 1947?

A Yes.

Q I will ask you, if as a member of the City Planning Commission, you approved this master plan, department of Planning Master Street Plans?

A I doubt whether I was to the meeting, I don't go to all of the meetings.

Q Well, you took the responsibility for it?

A No, I didn't take the responsibility for it. Why should I take the responsibility for the City Plans? I disagree with them a lot of times. That is a city ordinance and I have to study it.

Q It is in the way of performance of the City Plan Commission, isn't it?

A Well, I disagreed with them lots of times.

Q Can you say whether you disagree with this?

A I would have to sit down and study the maps or have someone explain them to me, before I could disagree with it. It does not have the names of streets or anything on it.

Q You say it does not have the names of streets?

A Now, I see the streets.

Q Do you see McCulloh street?

A Yes, sir.

Q And Druid Hill avenue?

A Yes.

Q Do you see the legend on the map about arterial connections?

A Yes, sir.

Q Do you approve of this map showing that McCulloh street and Druid Hill avenue are designated as arterial connections?

(Question objected to; objection overruled.)

A I am not an engineer, gentlemen, I have to get engineering advice. The Mayor runs for office and an engineer is picked because he studies engineering questions. I can't answer it.

THE COURT: You don't know whether you do or not?

THE WITNESS: Whether I approve it?

THE COURT: Yes. He asked did you approve the plan delineated on the map.

THE WITNESS: Your Honor, this plan was adopted by the previous administration, we inherited it.

Q Yes, but you passed it November 12th, 1947, didn't you?

A Do you mean the City Council passed it?

Q No, sir, approved by the Baltimore City Planning Commission.

A Well, the Planning Commission might have but that does not mean that the Mayor had.

Q Are you a member of the City Planning Commission?

A Yes, but I don't go to all the meetings. It is impossible. I have to be at a meeting today, one at 11:30 and one at 12 o'clock, and I have to miss one today.

Q Do you now want to disapprove of it?

A Knowing the engineers recommended it, I will be glad to support the engineers because I have confidence

in them. If the City Planning Commission approved it, ninety-nine chances out of a hundred I would approve it because they went into a long study. I thought you were talking about a specific street, about a specific item, but if this is an overall traffic plan they have before it, I am for it.

MR. HOUSTON: Your Honor, may we mark this as an exhibit now?

THE COURT: Yes.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 11.)

Q Mr. Mayor, what is the difference between the designation of a street as a one-way street and an arterial highway?

A I wish you would ask the engineers those questions. They are embarrassing questions. I am Mayor and not an engineer.

Q I will ask you, Mr. Mayor, if you wrote that letter?

A Which letter are you talking about?

THE COURT: What is the date of it?

MR. HOUSTON: February 26th, 1948.

A Yes, if it is in the Journal, I wrote the letter.

Q You said before at the outset of your testimony that you did not know about the fact this was part of the plan of the Baltimore Transit Company of reconversion from fixed wheel to free wheel?

A I did not say I did not know it was part of the plan to convert to buses. The way you put the question in this way, did you know this was part of the plan of the Baltimore Transit Company, that is what you asked me, you did not complete your sentence.

THE COURT: The question was, as I recall it, did you know that this plan originated with the Baltimore Transit Company.

THE WITNESS: That is right, and I did not know that. I said it was from the other administration.

Q I would like to read you this paragraph from your letter of February 26th, 1948, to the president and members of the City Council: "The establishment of St. Paul and Calvert streets last June as one-way streets as the first step in a street program in connection with the Conversion plan of the Baltimore Transit Company furnished

a dramatic demonstration of its value in expediting traffic, relieving congestion, and obtaining maximum use of existing facilities. It was the intention to designate other streets for one-way traffic shortly thereafter. Progress along this line, however, was interrupted when a stockholder sued the Transit Company. Although the stockholder's action was successfully resisted by the company's lawyers, with the cooperation of the then City Solicitor, Simon E. Sobeloff, the company saw fit to delay until after the decision of the Court of Appeals. That appeal has likewise been decided in the company's favor. A short delay was then thought desirable because of the fuel situation. This emergency will have been cleared up by the time the conversion to bus operation can be made. The city's traffic situation will not improve by delay, nor will further discussion help us. I am anxious to go ahead with the next step ---- the designation of McCulloch street and Druid Hill avenue for one-way traffic. The city has spent considerable money to provide new roads through Druid Hill Park, but these are useless and remain clogged until the principal thoroughfares feeding them are fitted into the

integrated street plan which was adopted after mature consideration." That is your statement, Mr. Mayor?

A That is right.

MR. HOUSTON: I ask that be marked as a Plaintiffs' exhibit.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 12.)

MR. HOUSTON: That is all.

(Testimony of the witness concluded.)

Thereupon - - -

THOMAS J. SMITH,
1729 McCulloch street,

a witness of lawful age, produced on behalf of the Plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q How long have you been living on McCulloch street?

A Thirty-five years.

Q Are you a native Baltimorean?

A Sixty-six years, I am sixty-six years old; lived here all my life.

Q Mr. Smith, has the neighborhood of Druid Hill avenue and McCulloh street been stabilized as a very desirable residential area ever since you can remember it?

A Ever since I can remember; yes, sir.

Q Tell us what has been your experience on McCulloh street, since McCulloh street has been designated an arterial thoroughfare?

A Well, conditions are almost unbelievable there and the noise and the traffic on different occasions, I have taken count of the traffic at certain periods, and any period in the morning or at night, in the evening during the rush period, there are one hundred cars, approximately one hundred cars passing in five minutes.

Q Do you drive a car yourself?

A I do, yes.

Q How long have you been driving?

A Twenty-eight years.

Q What observation, if any, have you made as to

the speed of the cars on McCulloh street before and after its designation as an arterial thoroughfare?

A It is difficult to get across the street in the mornings, when you get out the line of traffic is so long. Where I live is between North avenue and Lafayette avenue. At present there are only lights at those streets.

THE COURT: 1700 block is between where?

THE WITNESS: Between Laurens and Wilson.

The nearest light is Lafayette avenue on the south and North avenue on the north. You go across the street after the cars back up at North avenue, it takes you four or five minutes just to cross the street. That is for adults. For children, I wonder how they ever do get across. In the evenings at North avenue the traffic is backed up there when the light changes for about three squares down. The other thing is that in the early morning and at nights--- all that territory along there is on made land, all the old folks will tell you when that was a swamp or hollow, and those trucks coming down McCulloh street, and I presume Druid Hill avenue is the same, if you lived in an earthquake territory, you can realize what a tremor is. My house, I fear for it because of the fact it is being shaken

down. There were some alterations I wanted to make, but I am afraid to make them because I am afraid the city will condemn the wall if I do anything to the house. I have had to rearrange the furniture in my house to keep the heavy furniture off the front of the house and have these trucks shake it down. Before one tremor is through, there comes another one. You can sit in our house and feel the vibrations. I wonder why it has stood as long as it has. Of course, when I moved on McCulloh street these conditions did not exist.

THE COURT: How long ago was that?

THE WITNESS: 1913. Of course, it has grown considerably after that. After it was designated to be a one-way street way and after they opened up the Druid Hill Park entrance, it makes life miserable. You are afraid to sit out front in warm weather because you don't know when a car is coming up on the pavement and knock you in the house.

Q Has your property assessment been increased?

A My assessment was increased in 1947, \$650.

Q If you had known that McCulloh street and

Druid Hill avenue were to be designated as one-way express-ways, would you have protested the increase?

A I sure would have.

MR. HOUSTON: Your witness.

THE COURT: Didn't you have some inkling they might be designated as one-way streets?

THE WITNESS: There was something in the papers about it but there was nothing definite.

THE COURT: It was not settled.

THE WITNESS: No, it was not settled. They had not decided about it. The Druid Hill Park arrangement was made before there was any decision as to Druid Hill avenue and McCulloh street being made one-way streets.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q Apparently from what you say, the situation there where you live is pretty bad?

A It is.

Q It could not be much worse?

A I should not like to see it worse. It will

be worse when they finally designate it as a one-way street.

Q When cars come up one hundred every five minutes, is that both ways or just one way?

A Right now that is both ways.

Q When did you first learn that the city was thinking of making the streets one-way?

A Well, when I read it in the papers -- oh, some time back --- that they were considering it but they had not decided anything about what they were going to do.

Q When did you first read that?

A About McCulloh street I don't remember that.

Q Was it over a year ago?

A I don't remember that.

Q Was it before your property was reassessed?

A I don't think so.

Q You knew there had been some talk about it before your property was reassessed, didn't you?

A Well, only what I read in the papers.

Q Beg your pardon?

A Only what I read in the papers and you can't

believe what you read in the papers.

Q That was before your property was reassessed that you read it in the paper?

A Yes.

Q When did you first know of the passage of this ordinance?

A Oh, I knew of the passage of the ordinance. I was one of the committee that waited on the Mayor to ask him not to sign it.

Q So you knew it was approved in March of this year.

A I knew it was approved in March of this year.

Q After that ordinance was passed, did you make any petition to the assessors' office to decrease your assessment?

A After that ordinance was passed, no, I did not. I did not pay the tax bill.

Q You did not request that your assessment be lowered, did you?

A No, I did not, because I knew efforts were going to be taken to see if we couldn't have it lowered.

It was too late then. I knew when they send our an assessment unless it is objected to or reasons given within a certain time, it is too late.

Q How did you know that, did your lawyer tell you that?

A No, my lawyers didn't tell me that. I have been owning a house and I have been reassessed several times, and I knew there was a limit on it.

Q You are pretty familiar with the reassessment feature, are you?

A I wouldn't say I am familiar, but I know something about it.

Q Then the answer to my question is that you did not make any protest as to your assessment?

A I did not.

Q And the reason you did not do that ---

A The reason I did not do it was because the limitation of the time for making a protest was past. Then I did not know that the conditions were going to be as they are.

Q Have they changed since the passage of the ordinance?

A Oh, considerably so. The buses have been put on since the passage of the ordinance.

Q Since March of 1948?

A Yes.

Q You started to say that one of the reasons you did not protest was because you knew that something was going to be done to see if you all could not do something about the situation, or you expressed it in some way like that. When did you first know this suit was going to be instituted?

A Well, the Mayor said in his office, "I understand that if this case goes through you are going to enter suit against -- no, "You are going to take it to court," I think were his words. He said it would not be any use to do that.

Q When did you first know that the residents had decided to take this case to court?

A I don't know the date.

Q You knew about it in the spring of 1948, did you not, last spring?

A When was it signed?

Q On March 18th, 1948?

A Yes, I knew of it last spring.

Q That the suit would be instituted?

A I knew that something would be done, some protest would be made.

Q That was one of the reasons you did not petition the assessor to lower your assessment?

A No, that wasn't the reason at all. I said because the time had passed for petitioning the assessor.

Q You were not a party to this suit, were you?

A Yes. I think my name is mentioned on there as a party to the suit.

Q What was the amount of your assessment before it was increased \$650?

A \$3,450.

Q And it was increased to \$4100?

A \$4100.

REDIRECT EXAMINATION.

By Mr. Houston:

Q Do you have your tax receipts here?

A No, I have my tax bill. I haven't paid it.

Q Do you have your tax receipt for 1947?

A No, I didn't bring that.

MR. HOUSTON: May he be permitted to bring that in, your Honor? It is a matter of public record.

THE COURT: Yes.

Q Will you bring us the tax receipt for 1947?

A I will, yes.

Q And also for 1948?

A Yes.

MR. HOUSTON: I want to introduce now the Mitchell bills for 1947.

MR. O'DUNNE: They have not been identified, have they?

MR. HOUSTON: Mitchell identified them.

THE COURT: He said his taxes had been increased from \$127.17 to \$162.93.

THE WITNESS: I have the 1947 receipt here.

MR. O'DUNNE: Apparently they have not been marked.

(Tax Receipts referred to offered and received in evidence as Plaintiffs' Exhibit 12, Plaintiffs' Exhibit 13, Plaintiffs' Exhibit 14, and Plaintiffs' Exhibit 15, respectively.

Thereupon - - -

MRS. LILLIE M. JACKSON,
1216 Druid Hill avenue,

a witness of lawful age, produced on behalf of the
plaintiffs, having been first duly sworn according to
law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Are you a native Baltimorean?

A Born and reared here.

Q How much time have you spent in the area we
are now discussing, Druid Hill avenue and McCulloh street?

A I was born in this area, lived there all my
life with my parents and grandparents.

Q Do you drive a car, Mrs. Jackson?

A I do.

Q How long have you been driving?

A Since 1925.

Q Have you observed any change in the traffic
conditions on Druid Hill avenue since March, 1948?

A I have.

Q Will you state what they are?

A Druid Hill avenue has been our residential section, Druid Hill avenue and McCulloh street, and the speed has always been a normal speed according to the traffic laws, but since Druid Hill avenue has been designated as a one-way street, the traffic has increased and we have the heavy buses and the Interstate buses coming through at night and the large trucks, and our houses on Druid Hill avenue are old. We paid exorbitant prices for them by being the best residential community, we paid for the community, certainly not the buildings. Every wall in our house is cracked and it looks like ---

MR. O'DUNNE: Your Honor, I object to this as not responsive.

THE WITNESS: I want to explain to the Judge.

THE COURT: Let us see if I can get another question for you. She says the traffic has increased very much. Now, ask her another question.

Q Mrs. Jackson, what effect, if any, has it had on the physical property itself?

A The trucks and the large buses coming through jar our property to the extent that our ceilings are falling and we are in danger at any time, it is old plaster,

and it is heavy, not like the new housing, and if at any time the children -- I have grown children and even grown persons, if that plaster would fall down -- we have had a heavy bedroom ceiling to fall. Fortunately we were not in there. But you are in danger. My walls on the first floor are all cracked and this has all been definitely since these Interstate buses and the trucks have been going up and down Druid Hill avenue.

Q What is what about the churches along Druid Hill avenue and McCulloh street?

A The Bethel African Methodist Church has our largest seating capacity and our most influential church. That church and things of that sort ---

Q Where is that located?

A On Druid Hill avenue and Lanvale. It is a large concrete front. In front of me is the Young Baptist Church, one of the oldest Baptist Churches in the city of Baltimore.

Q Where is that?

A Right in the 2100 block of Druid Hill avenue, with a very large congregation and Sunday School on Sunday morning and church services at eleven, afternoon and night.

certainly Sunday has been our day on Druid Hill avenue that we relax and where we can be at home and it is quiet. If you go home on Druid Hill avenue, it is just like starting out of hell into heaven, that's the way we feel about our community. We have organized a Northwestern Protective Association and as citizens, we have spent thousands of dollars in the Courts protecting the devil's invasion and undesirable commercial activity in our community, showing how much we were perfectly willing to go into court to protect our residential community, and the city has cooperated in helping us to maintain this as a residential, church and school area. That is just what it is, densely populated, When there used to be one family houses, 1134 Druid Hill avenue, where I was reared, we had just one family, our whole family occupied that house, but now these houses which were one family houses have been converted into three to seven apartments because of the overcrowded conditions and the lot of the parents and their children and their grandchildren ---

MR. O'DUNNE: I object, your Honor.

THE COURT: Sustained. Do you have another question?

Q You are the president of the Baltimore Branch of the NAACP, are you not?

A I am.

Q As the result of your position, are you in constant touch with churches and familiar with their membership?

A I am.

Q Can you give us the approximate membership of Bethel Church?

A In the neighborhood of fifteen hundred to two thousand.

Q What about the one immediately across from you?

A About one thousand or fifteen hundred.

Q Are you a member of the Board of Trustees of Sharpe Street Church?

A Sharpe Street Memorial Methodist Church, that is one block from Druid Hill avenue and Etting street.

Q How many members do you have there?

A We have about fifteen hundred. The community center of that church spent \$30,000 to build the Sharpe

Street Community Center and that one congregation took upon itself to put the center ---

(Objected to.)

THE COURT: I think that is not responsive to the question.

Q Is there a Trinity Baptist Church?

A There is a Trinity Baptist Church at Druid Hill avenue and McMechen street.

Q What is the membership?

A I would say about five hundred.

Q Is there a Metropolitan Baptist Church?

A The Metropolitan Baptist Church on McCulloh street, in the 1500 block, on the corner of Mosher and McCulloh.

Q And its membership?

A About a thousand members.

Q Would you say that there are more colored churches in the particular area than any other comparable section of Baltimore?

A It is. There is eleven churches on Druid Hill avenue and McCulloh and the immediate vicinity and nine schools.

Q Did you witness any fatal accident on McCulloh street?

A Yes. The first week in November I was standing on the corner of Dolphin and McCulloh street, our office is situated on the other corner, 1202, and Dolphin street is the entrance. I was waiting there and I saw a Sun Cab and a very young fellow, and his motor was racing. Evidently, he was anxious to get to the Pimlico races ---

THE COURT: Strike that out.

A (Continuing) Well, I talked with the young man after that accident. Anyhow his motor was racing, and he had the car ready to beat everybody getting there, and, of course, he rushed through and I heard the brakes screech and the people screaming, and this is noon day, a beautiful bright Saturday noon day, and there a man was killed instantly. He was going at the rate of about forty miles an hour, and impossible to stop.

THE COURT: Did you see the car?

THE WITNESS: I was standing at the corner and I went up and saw the dead man lying there. It was a Sun cab, and a young boy. He said he was on the way to the races, he was in a hurry.

THE COURT: What time of the day was it?

THE WITNESS: Noon day on November 6th.

Q Let me ask you whether one of the persons who originally was contemplated as one of the plaintiffs here has been killed on McCulloh street, Mr. Watkins?

A Yes, Mr. John Watkins, an old former resident, his parents and grandparents, he was killed at Whitelock and McCulloh street. The man was rushing up McCulloh street and struck him and he never got up. He died.

Q When was that approximately, was it this year?

A Oh, yes, in 1948. Early part of the summer I would say.

Q Do you own a house on McCulloh street?

A I do.

Q Did you own a house on Franklin street before Franklin street was designated as an arterial thoroughfare?

A Yes.

Q State where your house is on Franklin street.

A 946 Franklin street.

Q Are you familiar with the area, that block 946 Franklin street?

A I am.

Q Are you familiar with what was the condition before the designation as a one-way street, of Franklin street?

A I am.

MR. O'DUNNE: I want to note my objection here. I think this is irrelevant.

MR. HOUSTON: It is a question of common experience and common results.

THE COURT: I think it is probably offered for comparison. Give you an exception. Overruled.

Q What has been the experience of that block as to --- what was it first, residential?

A It was residential. I bought it from a home owner because they were contemplating making it one way. She was an elderly lady and that is why I took the property, she wanted to get off the highway and into a quiet community.

(Objected to.)

THE COURT: Strike out the last part, that she wanted to get off the highway.

MR. O'DUNNE: In order not to interrupt, my objections will go to each question?

THE COURT: I will give you a general exception on it.

Q What has been the history of the neighborhood in the 900 block Franklin street, comparing its condition before the designation of Franklin street, with an arterial thoroughfare and after its designation?

A It has become a rundown community, a change in tone of the residents. It has become more or less tenant property.

Q Do you know whether there has been any public complaint about the condition of the neighborhood?

A Yes, the Mayor made a complaint ---

(Question objected to.)

THE COURT: I will sustain an objection to that, Mr. Houston. Strike that out.

MR. HOUSTON: That is all right.

THE WITNESS: Judge, your Honor, I would like to say this about my taxes ---

Q I am coming to your taxes. Has your taxes been increased on Druid Hill avenue?

A Yes, it has. In 1947 I paid \$150. In 1948, of course, I pay my taxes ---

THE COURT: Do you mean your assessment was \$150 or the tax was \$150?

THE WITNESS: My tax was \$150, my assessment was \$4300, and it went to \$6040, with a ground rent. It jumped from \$150 to \$200.88; \$50.88 increase in a year, with less peace and security.

MR. HOUSTON: I ask that the tax receipts for 1947 and 1948 be marked as Plaintiffs' Exhibits.

(Papers referred to offered and received in evidence as Plaintiffs' Exhibit 16 and Plaintiff's Exhibit 17, respectively.)

Q Mrs. Jackson, what effect has the designation of Druid Hill avenue as a one-way expressway had on your use of property as a resident?

MR. O'DUNNE: I think that has been answered.

THE COURT: I think she probably has answered. She has said very definitely what has happened to the walls.

THE WITNESS: Even the streets, I can't use my street. Of course, I am a business woman and always able to park in front of my door and if it is made a one-way street I will lose the use of my car, and being a very congested area, we would have to go blocks to park our cars.

Q Would you have protested the increase if you had known within twenty days after the assessment that Druid Hill avenue was going to be a one-way expressway?

A When the new assessment came along in the fall, I made a protest. I spoke to a lawyer about it. I gave it to an attorney and I thought he had made a protest. However, I thought I was keeping up with the park changes and I understood they were going down Madison avenue and I had no idea they would think about coming down Druid Hill avenue, because that is all we have. We citizens have no where to go. We are like a bunch of rats up against a wall. The only reason we are spending our money in coming into court now, is, for goodness sake, to ask the court for aid. We have no recreational facilities, we have nothing.

(Objected to.)

THE COURT: Next question.

Q You would have protested if you would have known this was going to be designated a one-way street?

A I say I would have protested. Even the \$50 raise I thought was too much.

MR. HOUSTON: Your witness.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q When was the last time your assessment was raised prior to 1947?

A I wouldn't want to say.

Q You have lived there a long time?

A Yes, I have been living there about twenty-three years. That is, in that house.

Q During the time you were living in that house, do you know if your assessment was raised?

A I think it was, I think it is.

Q You are not sure?

A We have the bills to show.

Q Are you familiar with the fact that houses in that neighborhood have been sold recently?

A I would like to answer it this way, yes. I might say this to you. Real estate men for years have been writing me about my property and I wondered what in the world they were writing me about. Real estate men come along and get hold of us people and pay extortionate prices --

MR. O'DUNNE: I don't think this is responsive, your Honor.

A (Continuing) -- and bring undesirable people into the neighborhood and get more for the property--

THE COURT: Wait a minute. Read her the question, Mr. Goetz.

(Question read by the reporter.)

A Yes, and I am going to answer him.

THE COURT: I think you gave her the stepladder to stand on.

MR. O'DUNNE: Well, in the condemnation law when you talk about a sale, that is a sale. You never talk about who offers what.

THE COURT: She said this is about somebody trying to buy property.

MR. O'DUNNE: She is now going to talk about an offer, which is a completely subjective thing.

THE COURT: Do you know anything specific about sales in the neighborhood? Have there been any sales recently?

THE WITNESS: Yes, there was a house next door to me sold.

THE COURT: Would that be 1208?

THE WITNESS: 1218. I would like to tell you about that.

THE COURT: You say that has been sold.

THE WITNESS: It has been sold. The overcrowded condition has forced my people to pay any price that unscrupulous real estate men ask, to live with their children. Of course, there are people who migrate here and who are anxious to get in a better section of the city than where I live, and they crowd into these places.

THE COURT: What about this particular house?

THE WITNESS: I am saying this particular house was bought by out of town people, at least out of town people are living in it ---

THE COURT: I think maybe Mr. O'Dunne wants to ask you another question.

Q When was that sold?

A I think about a year or more ago.

Q Do you know what it was sold for?

A No, I don't. I know that the lady offered me a price for the place, which was in terrible condition, at a price that no landlord or no sane person would pay for

it.

Q She offered to sell it to you?

A She offered to sell it to me.

Q How much did she offer to sell it to you for?

A \$5,000.

Q In a terrible condition?

A In a terrible condition, yes. Of course, it was being exploited because of overcrowded conditions and they paid anything to get a house.

Q Was the house in about the same condition yours is?

A Oh, my house is in better condition. Mr. O'Dunne, the properties we buy are leftovers. We pay fabulous prices for them because we have to live under shelter, so we just have to buy them, and we are just exploited. We just have to. We are like rats. They are living in cellars, paying \$5 and \$6 in people's dirty cellars.

Q Do you mean houses in that block are selling for more than they were?

A Absolutely, any house.

MR. HOUSTON: I have no objection to this and I pray for it to go on, but if you go into that you are

going into the very thing Mr. O'Dunne stopped me from, that is, artificial restrictions against negro neighborhoods, expanding credit and cash for artificially priced property because of the shortage of houses.

THE COURT: I think she has covered it anyway.

MR. O'DUNNE: We are talking about her complaining about assessments, which are based on market value. She is an old resident or she has been a resident for a long time in this particular area. If she owns property and knows what they are worth and what they sell for, that has a bearing on why she would not complain of her assessment.

THE COURT: She says they are not worth what they are selling for and it is a peculiar condition that has caused it. Do you want to ask her anything else?

MR. O'DUNNE: That is all.

(Testimony of the witness concluded.)

(Recess from 12:30 p. m. until 1:30 p.m.)

AFTER RECESS (1:40 P.M.)

Thereupon - - -

JOHN N. COTTON,
2337 Ivy Avenue,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Cotton, you are employed in the Public Schools?

A I am.

Q Will you state your position?

A I am the principal of the Junior High School 130 located at Lafayette avenue and McCulloh street.

Q How many children do you have enrolled in the school?

A Today we have 1,567.

Q How many of those children have to cross Druid Hill avenue and McCulloh street?

A Four out of every five. That makes a little

over 1220 that cross every day two and fro school.

Q What are the traffic conditions?

A We have a traffic light at Lafayette avenue and McCulloh street. Just recently we have a police officer stationed at Lanvale and McCulloh streets from 8:45 in the morning until 9 o'clock, and usually from 2:30 until 3 o'clock.

Q Were there any traffic policemen stationed there before June 10th, 1948?

A No. We had a traffic officer at the light at Lafayette avenue and McCulloh street but we felt we should have a traffic officer at Lanvale street and McCulloh and we did speak to the sergeant on the post and they began to change the traffic officer from McCulloh and Lafayette avenue to Lanvale and McCulloh street.

Q That was after June of this year?

A Well, just wait, let me see. No. I think it began about March of 1948. If the officer was stationed at Lafayette avenue and McCulloh street, he was not supposed to leave that position and go to Lanvale street and McCulloh because we had asked him on several occasions to do so, but he said he had an assignment and he had to

locate at a certain post.

Q What would you say as to the hazards, if any, for children coming to your school and going from your school?

A The hazards have been increased since the bus line has been established. I mean by that this. The regulation that the bus is to be pulled up to the curb to discharge passengers, automobiles and trucks can pass on the other side of the bus while the bus is discharging passengers. That means that we have to be exceedingly cautious of the boys and girls crossing the street because they cannot see the automobiles coming. Fortunately we have been able to have it so that no accidents has happened. But every time I hear the brakes screeching or some noise, I am expecting to hear about some accident.

Q Do you know whether the traffic light was installed after a particular occurrence?

A The traffic light was there before I went to that school. I went there in 1943. The traffic light was at Lafayette and McCulloch street before that time.

MR. HOUSTON: No further questions.

MR. O'DUNNE: No questions.

(Testimony of the witness concluded.)

Thereupon - - -

ALEXANDER J. ALLEN,
842 Beachwater lane,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Allen, are you the secretary of the Baltimore Urban League?

A Yes.

Q And you have been for how long?

A Since 1942 in the capacity of industrial secretary. Since 1945 as executive secretary.

Q Mr. Allen, as industrial secretary of the Urban League, have you had occasion to make a study of housing conditions in Baltimore?

A Yes, we have. We have endeavored to keep up to

keep up to date on that and have made several special inquiries.

Q Have you studied the matter of the changeover-- let me make this tender, otherwise it may not seem to have relevancy.

On the question of the damage to property, your Honor, I want to show as to the inflated value, or even if the testimony develops that the property is worth a certain amount at this time, that should be taken against the particular condition we have reference to because that part of our case is the matter that the property values have gone down as the result of this designation of the streets as one-way, arterial expressways, and even if the testimony is that the properties are up and are not low as they were a few years ago, it still must be taken into consideration the demand over the market conditions.

THE COURT: You would not be able to do that without a qualified real estate appraiser, would you?

MR. HOUSTON: I think I am able to get it out of him, the survey, and I will make the tender, then your Honor may rule on it. The tender is that we have made a

study of the area which was changed over at Fulton avenue, and they found that while the properties have increased in sales price fifty per cent. when the properties were turned over to Negroes, they went up to 175%. I think that is very material. So that what you have here is not one real estate market, as my friend was trying to imply in his cross-examination of Mrs. Jackson, but you really have two real estate markets in Baltimore, white markets and negro markets.

THE COURT: I don't know that you can prove it by that method.

MR. HOUSTON: I certainly can prove their findings on their survey. I can just prove the quantity of them, that these things happened. Interpretation may be for the Court.

THE COURT: We had that in the stadium case, where the question was all the property in Baltimore City, we will say, had increased in value or was inflated to the extent of maybe seventy-five or eighty per cent. but the property around the stadium had only increased to an inflation value to the extent of about fifty per cent.

Therefore, they said it must follow that this property had depreciated on account of the use of the stadium for baseball and athletic games. It did not seem to me a very good way to prove that point, even though in that particular case they used expert real estate witnesses to prove it. You go ahead and I will strike it out if it is not material. To me it has not too much probative value.

MR. HOUSTON: I understand, but it is all going to be connected up later because we do have Mr. Babcock here as an expert, who is going to testify. I am laying the foundation for his testimony.

Q Did the Urban League make a study of marginal neighborhoods in that particular section?

A Yes, we did.

Q By marginal neighborhoods, I mean the northwestern section.

A Yes, the largest negro community in Baltimore is in the northwestern.

Q Does that include McCulloh street and Druid Hill avenue?

A That includes McCulloh street and Druid Hill

avenue. Up until 1945 the western boundary for that area was Fulton avenue. Beginning early in the spring of 1945, colored people began to move into Fulton avenue and beyond Fulton avenue, and that movement has continued up to the present time. We made a study of the housing prices in Fulton avenue area in the latter part of 1945, and the first part of 1946, to get some indication of the extent to which prices were increasing because housing was now being sold to colored people rather than to white persons. We based the survey on the record of the sales in the Record Office of the Court House, as indicated by the Federal and State sales records, and we got that information, indicating on the housing study an average increase had taken place of 175% during a period in which Mr. C. Philip Pitt, the secretary of the Baltimore Real Estate Board, informed us that the general ---

MR. O'DUNNE: I object to this.

THE COURT: Sustained.

A (Continuing) During the period in which our information was secured --

MR. O'DUNNE: Your Honor, I object to this.

THE COURT: I sustain that objection. You cannot

tell what Mr. Pitt told you.

A Shall I put it this way? That our release indicated that a general increase at that time was on an average of 50%? I am quoting our release now.

Q Did you also study the matter of new construction?

A Yes, we have. I am not citing now Urban League studies, but I can read here from a report of the Government's Commission on problems affecting the negro population, which was done by persons expert in this field, indicating -- I cannot read the exact quotation, but I can tell you what it says.

Q If you summarize it, it will be sufficient.

A Doctor Ivan MacDougall, Professor of Sociology and Economics of Johns Hopkins University and Goucher College, made a study in 1937 which indicated in the history of the city less than 150 new houses had been built for negro occupants. That is related in the conclusion of the study.

THE COURT: Do you mean within the city limits or city and suburban districts?

THE WITNESS: In surveying the city's negro

housing situation, Doctor MacDougall found ---

THE COURT: Wouldn't you say more than that number were built in the Cherry Hill section alone?

THE WITNESS: That is since 1937.

In Cherry Hill approximately 600 houses were built by private enterprise during the war, and perhaps a hundred more since the war. But the point which I think is important is that private building at present is proceeding in Baltimore at a rate exceeding five thousand dwelling units per year, whereas less than one hundred units are being built for negro occupants, and this is the Baltimore area as well as the city limits.

THE COURT: I think that is probably true of private capital but that does not take into account that ^{were} large units/built by Federal capital.

THE WITNESS: It should be said that no housing at all has been built since the war by public auspices. Our State government does not build houses and our municipal government does not build houses, and there has been no Federal money since the funds were exhausted, so that there has been no Federal housing built.

Q In connection with these studies, did you

make a study of the population density?

A We don't have figures that I can quote on population density, but I can say this, and I can cite references here again in the Government's Commission report to the same effect, that Baltimore is even worse in terms of congestion and density than most cities, so far as negro population is concerned, because Baltimore has an area which may be indicated as the colored area, which is in the shape of a wedge or slice of pie, which has access to the periphery of the City and normal progression and growth is possible into the counties and into the suburban areas.

Q That is as to other cities. In Baltimore, however, there is another reason, isn't there?

A The major negro population centers are islands which leave very little expansion. I can give you something on vacancy rates, if that would be pertinent.

MR. O'DUNNE: Your Honor, I think that is going awfully far afield.

THE COURT: I think so. Ask him another question.

Q Have you made a study of the recreational facilities for the negro population of Baltimore in this section?

A We have made no independent inquiry on the part of the Urban League, but from general familiarity with the study done by the National Recreational Association for the entire city of Baltimore in 1943, under the general supervision of the State Plan Commission.

Q What were the findings?

A The findings were that Baltimore, as a whole, was far below standard in the terms of the amount of built areas and the types and quality of its recreational outlets, but it was exceedingly below standard so far as negro population is concerned.

Q What about the particular area in which Druid Hill avenue and McCulloh street are located?

A That same thing is true there, and perhaps concentrated because of the amount of concentration and congestion.

THE COURT: That would not apply to the northern part of the section because you have all of Druid Hill Park there, which is certainly not below standard.

THE WITNESS: That is true.

THE COURT: Probably the best in the city.

THE WITNESS: To the extent that is available

for negro use, but there are some severe limits there.

THE COURT: I have seen the football grounds there and things like that, and I think they compare very favorably with any park in the city.

THE WITNESS: Druid Hill Park to some extent is available.

THE COURT: It seems very satisfactory to me. It may not be as large as Clifton Park, but certainly the facilities are equal with Clifton Park facilities.

THE WITNESS: I am not sure I made myself clear. I was referring to the fact of the present administration of the Park Department. All of those facilities are not available for the use of the colored citizens.

THE COURT: The ones I speak of are.

THE WITNESS: Yes, some are.

Q (By Mr. Houston) Those that are available, are they adequate to take care of the population?

A No, they are not, and that can be substantiated by the study to which I referred.

MR. HOUSTON: That is all.

MR. O'DUNNE: No questions.

(Testimony of the witness concluded.)

Thereupon - - -

AUGUSTA T. CHISSELL,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Your husband is a physician, resident in this area?

A Yes.

Q Will you tell exactly where you live?

A At 1534 Druid Hill avenue.

Q How long have you lived there?

A Around twenty years.

Q Before that were you still living on Druid Hill avenue?

A We moved from 23rd street to Druid Hill avenue, to 1534.

Q Mrs. Chissell, you heard Mrs. Jackson testify, did you not, as to conditions there on Druid Hill avenue, traffic conditions since the ordinance was passed naming

it as a one-way street?

A Yes.

Q Is your testimony the same as Mrs. Jackson's as to the inconveniences and the disturbances?

A Yes, they are dreadful.

MR. HOUSTON: I am just trying to save time, your Honor.

Q Have you had any personal experiences with traffic hazards?

A Well, the personal experience is the terrible odor from the gases, that really distresses me.

Q What experience, if any, have you had so far as accidents are concerned to yourself?

MR. O'DUNNE: I will object to that.

THE COURT: Accidents to herself?

MR. HOUSTON: Yes.

THE COURT: Do you mean she being injured?

MR. HOUSTON: Yes.

A I think it is most distressing when you have ---

THE COURT: Wait a moment. I think that question had better not be answered at this time.

Q Did you have any experience on Druid Hill avenue

about a week ago?

A Do you mean pertaining to myself?

Q Yes.

A That was McCulloch and McMechen streets.

I had an occasion to be riding on the McCulloch street bus one day and when I got off at McCulloch and McMechen streets, I made it my business to be the first one off because I was in a hurry, and while the other passengers were being discharged I started across the street, and just as I started across the street an automobile whizzed right by me. I could have touched it. It nearly frightened me to death. I think the buses have caused a hazardous and really tragic condition, especially at the intersections. You take Druid Hill avenue and McMechen street, the buses stop and the cars stop to discharge passengers, and I have been accustomed to that, and that is the reason when I get off of the bus at McCulloch street I started right across.

Q Now, tell us about your taxes, have your taxes been increased, have your assessment been raised? Was it raised in 1947?

A On our property where we live the taxes were in-

creased in 1947, but not in 1948.

Q I am talking about 1947. Were they increased in 1947?

A They were increased in 1947.

Q Do you have your tax bills and receipts?

A Yes.

Q May we see them?

A Now, you take those taxes, they were increased in 1947 on the home and taxes here were increased. This is a terrific increase.

Q What other property do you have in that area that you have bills for?

A I only brought taxes for one house, in the 1300 block.

Q Of Druid Hill avenue?

A Yes. We have two properties in that same block, 1300 block. I only brought taxes for one. Here is a tax bill for one and here is a tax bill for our house.

THE COURT: How much were your taxes increased in 1947?

THE WITNESS: At 1534?

THE COURT: Yes.

(Witness hands tax papers to counsel.)

Q Mrs. Chissell, here is something I don't understand. Was your assessment increased in September, 1947 or before then? I call your attention to the fact that you have a bill which you paid in January, 1947, and that shows \$5,040. 1948 shows \$5,040, but 1946 shows \$4,540. Can you explain that?

A It is beyond me. It is just as it is stated here.

THE COURT: Wouldn't it appear that the increase was in 1947, as she said?

MR. HOUSTON: In the 1947 bill is where it appears.

THE WITNESS: Yes.

THE COURT: What was the difference in the assessment? Suppose you offer 1946 and 1947 bills.

MR. HOUSTON: All right. The difference between 1946 and 1947 in the assessment is \$500 exactly, and the difference in the tax bill is from \$159.29 in 1946 to \$173.22 in 1947. I will ask that these be marked as plaintiffs exhibits.

(Papers referred to offered and received in

evidence as Plaintiffs' Exhibit 18 and Plaintiffs' Exhibit 19 respectively.)

MR. HOUSTON: As to the other property she referred to in 1326 Druid Hill avenue, I offer the bills for 1947 and 1948.

(Papers referred to offered and received in evidence as Plaintiffs' Exhibit 20 and Plaintiffs' Exhibit 21, respectively.)

Q In 1947, the assessment for 1326 Druid Hill avenue was \$4,338, with a total tax bill of \$128.17; in 1948 the assessment was \$5,080, with a total tax bill of \$162.93. Had you known at the time your assessment was raised that Druid Hill avenue was going to be designated as a one-way express street, would you have protested the increase in the assessment?

A Why certainly. The property had depreciated.

MR. HOUSTON: No more questions.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q But you did not protest the increase in assessment at the time the increase was made?

A No, we didn't do anything about it.

Q Have you made any improvements to 1326 Druid Hill avenue in the last few years?

A No.

Q Did you do any painting?

A There is a ceiling on this and for that reason I haven't made any improvements.

Q You have made no improvements at all?

A No.

Q I asked you did you do any painting?

A The tenants did their own painting on the inside, redecorating.

Q There has been some redecoration done?

A I just had the outside done.

MR. O'DUNNE: That is all.

REDIRECT EXAMINATION.

By Mr. Houston:

Q How much did that painting cost you?

A I don't recall exactly.

Q Did it cost you \$1300?

A The painting outside?

A Mr. Mitchell, you had your house painted. It was just about the same amount, wasn't it?

MR. O'DUNNE: I object to that.

Q No, we cannot do it that way.

A I would have to look at the bill to see what I did pay. I don't want to make an untrue statement.

(Testimony of the witness concluded.)

Thereupon - - -

M. FRANK FITZPATRICK,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Will you please state your official position?

A Director of the Department of Assessments.

Q You have been in that position how long?

A Since June 1st, 1937.

Q What are your duties as director of the department of assessments?

A To supervise the assessing of all real and personal property in the city of Baltimore.

Q What procedure have you followed when a person's assessment has been changed with reference to giving him an opportunity to be heard?

A When his assessment has been raised, or changed, there is a notice mailed from our department stating the former and proposed assessments, and giving him fifteen days in which to reply, and there are certain interrogatories attached to that notice which he can fill out and return at the time.

Q What elements do you consider in determining the assessment of residential property generally?

A Well, the main factor, the real factor in residential property is the market price, the purchase price.

Q And you reach that by what?

A By an analysis of the sales in the neighborhood.

Q Did you have occasion during the year 1947 to reappraise the values of real property in McCulloh street

and Druid Hill avenue north of Fulton avenue?

A Yes, sir.

Q Did you appraise the real property in that area which was being used for residential purposes?

A For all purposes.

Q And as to the residential property in that area, did you follow the same system for reappraisal that you followed in the rest of the city for residential property?

A Yes, sir.

Q Are there any elements that go into the market value except sales?

A Well, the main factor, as far as market value is concerned, are sales and if there are very few sales by which we can be governed, then we will have to attempt to analyze the rents paid for the property and see what a person has paid for such property based on the rents, the potential rent or available rent.

Q When you consider potential rents or actual rents, do you also consider the nature of the neighborhood as to whether any particular uses are being made of the

neighborhood which might affect its desirability for residential property?

A Such conditions are usually reflected in the selling price, the conditions are usually reflected in the selling price of the properties in that neighborhood.

Q But suppose that the area is so recent that there have not been the number of sales which would give you or reflect the change in the use, would you still consider the use, particular use to which the property is being made, or the neighborhood is being made, in determining its effect upon property?

A Yes. For instance, we are in a neighborhood in which some drastic change has taken place and there are not any sales, of course, we will attempt to make a study of the area, we will try to compare that with some section that has had a similar condition affecting it, and see what the effect has been in that other area, and maybe act accordingly.

Q Let me go to this matter of Franklin street. Have you had occasion to consider the use of Franklin street as an arterial thoroughfare in making your appraisals of property in that area?

(Question objected to; Objection overruled.)

A At the present time every assessment that we have made, whether it is in an area that is subject to such conditions as Franklin street or Mulberry street, we feel that there is only one determining factor at the present time which governs the value of real property. Everything else is subordinate to it. The main thing at this time is the desire for shelter, and that predominates in every instance, and it is hard to say whether or not any one way street would affect it. It is hard for us to come to a definite conclusion. We may be able to surmise, but it is evident even in Franklin and Mulberry streets that in our reappraisal we found values were always higher than they were the last time we assessed it.

Q Did you find, nevertheless, although the values are higher there, they did not represent an increase which is proportionate to the rest of the city?

A I think the increases throughout the city have been for the most part on a par, with the exception maybe of what we term luxury homes. Luxury homes are, of course, such as we have in Guilford and Homeland, which is usually slower to respond to any increase, but when the increase

takes place it is more accelerated than in any other section.

Q Let me ask you flatly. In the reappraisal --

THE COURT: You mean it is more pronounced, don't you, not that it is more accelerated?

THE WITNESS: I mean it is slower starting but it does not take long for it to get up to the same condition that exists as far as other properties are concerned..

Q Let me ask you this. Did anybody in the city government notify you or your department that Druid Hill avenue and McCulloh street were to be one-way expressways when you were making your appraisal in 1947?

A No, sir.

Q If you had been so notified that the plan of the city was to name Druid Hill avenue and McCulloh street as one-way expressways in 1947, at the time you were making your appraisal, would you have taken that into consideration?

(Question objected to.)

THE COURT: Just a minute. Is it a fact that they are one-way expressways?

MR. HOUSTON: That is the way I understand they

have been so designated.

THE COURT: They are one-way arterial streets, aren't they?

MR. HOUSTON: That is right.

THE COURT: Don't we consider an expressway a street to which access is limited? That has been the general use of the term in Baltimore I think. For instance, what was called an expressway was the street that was proposed between Mulberry and Franklin streets, and to be below the area of the rest of the street so there could not be any access to it from cross streets.

MR. HOUSTON: I will strike that out because I don't want to confuse the record.

Q If you had been advised that the city had made its plan, that is, the plan to make Druid Hill avenue and McCulloh street one-way arterial thoroughfares in 1947, at the time that you made your reappraisal of property on Druid Hill avenue and McCulloh street, would you have taken that factor into consideration in reaching your assessment?

MR. O'DUNNE: I object, your Honor. I want to object on the ground that the assessment is made as of a

certain period and that the market value of the property is appraised as of that time. Now, unless this question includes a date when he was told that the highways were devoted to one-way operation and what their effect would be, I don't think that the question is a legitimate question. I object to it on that ground.

MR. HOUSTON: My theory of this case, your Honor, is that in 1946 the City had already been committed to making Druid Hill avenue and McCulloh street one-way arterial thoroughfares just as rapidly as possible. They had spent \$400,000 and the testimony here is that the dual highway through the park has been closed off because they were not made. In January, 1948, appeared the ordinance introducing this plan in the city of Baltimore, it was all part of one transaction. It is part of our case and basic to our case, and if it is true that naming these streets are one-way arterial thoroughfares would reduce the value of the residential property and therefore be reflected in the assessment, that for the city to withhold that information from the people and from its own officers making the reappraisals, constitutes a fraud on the property owners to raise their assessments and withholding that

information. Therefore, it is particularly material for me to find out if he had had that information would he have taken it into consideration, because that is the foundation of the testimony of experts that inevitably it follows when you designate a street as a one-way arterial thoroughfare, its value for residential purposes declines.

THE COURT: Of course, he could not know what it would be because he would have to have the ordinance and that ordinance was not passed until 1948, was it?

MR. O'DUNNE: That is right.

MR. HOUSTON: Except that that might be true under an ordinary situation. The ordinance, however, is simply a formalization of the plan. The plan itself was accepted and adopted by the city. We have it here in the Riders Digest, which the City Planning Commission had adopted.

THE COURT: I do not think you can do it that way, Mr. Houston. I think what you can do possibly is to recite to him the known facts in the case at the time of the assessment and ask him if he knew those facts. I think

that is as much as you can do.

MR. HOUSTON: All right, sir.

Q Mr. Fitzpatrick, if you had known that the city had approved the plan of making Druid Hill avenue and McCulloh street as one-way streets, that this plan was also the plan or part of a plan of the Baltimore Transit Company for reconversion of its fixed wheel traffic to free wheel traffic, and that as a part of that plan a dual highway had been built through the western edge of Druid Hill Park at a cost of \$400,000, and that this dual highway through Druid Hill Park was useless practically as a dual highway unless Druid Hill avenue and McCulloh street were named as one-way arterial thoroughfares, and if you knew that there was heavy pressure on the city authorities to have these streets named as one-way arterial thoroughfares, especially in view of the completion of that dual highway, would you then have taken those facts into consideration in determining your assessment of the real property, residential property on Druid Hill avenue and McCulloh street in the year 1947?

MR. O'DUNNE: I object.

THE COURT: Overruled.

A I think, Mr. Houston, that I would have to explain our policy. The law calls for full cash value on the day of finality. We must abide by that, but at the present time prices throughout the city of all types have skyrocketed to such an extent that when we set out to cover the city, under the five district plan, we adopted as a base sale prices indicating what seemed the intrinsic value of the property, and therefore our conception of the full cash value were the sale prices of the year 1942, and the early part of 1943. Our assessments in the area spoken of will reflect the sales prices of that time, so that if anything occurred in the year 1946 it could hardly affect the market price of 1942 and 1943.

Q Let me ask you this. Why did you take the year 1942-1943 when you were making an assessment in 1947?

A We started out in the first district in the year 1942. There had been during the 1930's, as everyone knows, a tremendous drop in prices and the year 1942 was the last year in which there had been any very great extent of home building, and it seemed that the prices paid at that time before there were any, you might say, inflationary trends, that we considered that year would be the fair-

est year to hold as being the intrinsic value of the property, and we held to that during the following cycles we went through.

Q In other words, you are saying now, although you made your assessments on Druid Hill avenue and McCulloh street in 1947, you still took the values, so far as sales were concerned in 1942 and 1943?

A Yes, sir.

Q You accepted the sales prices as reflecting the fair market value of an open, unrestricted market, is that correct?

A That is right.

Q Did you take into consideration that along Druid Hill avenue and McCulloh street you do not have an open unrestricted market?

A In 1942 and 1943 we did.

Q Did you take into consideration the fact that so far as negroes purchasing property was concerned, they could not purchase property all over the city and were restricted to certain areas?

(Question objected to.)

THE COURT: I really do not see how that throws any light on it.

MR. HOUSTON: It throws this much light on it. We have had the testimony of 175% immediate increase in the property values when they are turned over. We have already had evidence of a restricted market. He talks about the matter of sales prices, and I respectfully submit on an open,unrestricted market you would never get the prices you get that Druid Hill avenue and McCulloh street have been getting for property on Druid Hill avenue and McCulloh street. I just want to get the basis of his assessments.

THE COURT: That is somewhat debatable in this way. There has not been an unrestricted market in Baltimore since 1941 or 1942 because you could not get materials to build houses.

MR. HOUSTON: But such as we have you still have definite markets.

THE COURT: That might be, but I think it is rather hard to figure that with respect to this property. When you start to compare Druid Hill avenue property, for

instance, with property around Lafayette Square, it is all in the same category.

MR. HOUSTON: May I make this tender because I think I can develop right now he is going to testify that he does consider it?

THE COURT: I do not think it is pertinent.

MR. HOUSTON: Let me strike that question and ask you this.

Q Did you consider the fact in 1947 the real estate market -- that the negro real estate market was artificially restricted by restrictive covenants?

MR. O'DUNNE: I object. I have not seen one restrictive covenant in evidence.

THE COURT: I will sustain the objection and give you an exception on it.

Q Do you realize that there may be a shelter premium paid for homes which is above the ordinary real estate market?

A We recognize that to a very great extent. That is the reason we took a back year instead of the current year.

Q Would you recognize that there is a shelter

premium paid for homes on McCulloh street and Druid Hill avenue over and above the shelter premium which might be paid for homes generally throughout the city?

A I find there is a shelter premium paid every place, but I would say that in cases where negroes have to buy homes the prices are usually higher when they are being changed -- when there is a transition from a white to a colored neighborhood.

Q Did you consider that the designation of the street as a one-way arterial thoroughfare affects the street, affects the property, the value of the property for assessment purposes, for residential property?

A We cannot anticipate values, we have to follow them. If you want my personal opinion, it should have an affect on properties, but we would have to follow that effect. We would take the conditions as they exist at the time we make the assessment.

Q So, if you had the information which I have just given you as the state of affairs in the City Government as to its planning and as to partially effecting its plan through the building of this proposed new high-

way, you say you would or would not have taken that into consideration?

A When we consider the basis we use for our assessment, I think we would not have deviated from that in the slightest.

MR. HOUSTON: That is all.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q Mr. Fitzpatrick, by using as a norm the sales in 1942 for what assessments should be in 1947, as opposed to using the sales in 1947, did that have the effect of raising or lowering the amount of the assessment?

A In every instance it increased the price because, if you will permit me to use the figures, in the year 1931 the real property basis in Baltimore city was \$1,201,000,000; the price decreased during the entire 30's, so that it was the year 1947 before the real property basis again reached \$1,200,000,000 despite the fact that during that period there had been erected a total of \$147,000,000 worth of new improvements.

Q So, actually, if you had used as a norm sales

in 1947, the assessments would have been raised even more; is that right?

A That is right.

Q By using the 1942 sales, the property owner got a break so to speak, is that right?

A Yes.

Q Can you tell the Court the circumstances in which you happened to assess in the 1200, 1300, 1400, 1500 block Druid Hill avenue and the 1700 to the 2500 block McCulloh street, will you tell us the circumstances under which that property was assessed?

A The city is divided into five districts in accordance with an act passed by the General Assembly in the year 1943 ---

Q Are those five districts reflected on this map?

A This map shows the five districts that we have laid out for that.

MR. O'DUNNE: I would like to have this marked.

THE COURT: Very well.

(Map referred to offered and received in evidence as Defendant's Exhibit 5.)

Q Can you see this map from there, Mr. Fitzpatrick?

A Yes.

Q Can you tell the Court with reference to that map where this area in question is located?

A It is known as the 14th Ward and also as the 11th and 17th Ward, right in the center of the map.

Q Well, now, will you explain the procedure under which you assess property in the city, that is to say, do you assess all the property every year or what happened?

A No, we divided into five districts. That map is rolled a little bit. The legend shows in the lower lefthand corner each district, most of the districts are contiguous areas, and in trying to arrange so that there is about an equal amount of property in each area ---

Q So that in other words, you reassess one-fifth of the city every year?

A That is right.

Q So at the end of five years ---

A The cycle is completed.

Q So far as the year 1947 is concerned, were the properties in the blocks I have mentioned on Druid Hill avenue and McCulloh street taken out of order or was that the year they were to come up for reassessment?

A The 14th Ward assessment was a year lower than the 17th and the 11th, the 11th and 17th were assessed in the year 1948. On Druid Hill avenue the 1200 and 1300 blocks are in the 11th and 17th wards, the dividing line there is Lafayette avenue. The 1400 block is above Lafayette avenue. That is the 14th ward.

Q 1300 block of Bruid Hill avenue, that was ---

A Druid Hill avenue was also the dividing line between the 11th and the 17th wards, so that the west side of Druid Hill avenue in the 1200 and 1300 blocks are in the 17th ward and the east side in the 11th ward?

THE COURT: I did not understand you to answer Mr. O'Dunne's question. Was that assessment out of order so far as the five year plan was concerned?

THE WITNESS: No, we just completed our five year plan.

THE COURT: In other words, nobody there was

assessed within five years of the time they had been assessed before, is that right?

THE WITNESS: That is right.

Q (By Mr.O'Dunne) Mr.Fitzpatrick, is it customary, in your office which is charged the assessment of property in the city, for other departments to give you notice of any improvements they might contemplate, so that you can consider those improvements in connection with your assessments?

A The only time we are notified is that under the new charter we are also charged with the condemnation of property, which had been a function of the Commissioner for Opening Streets, and Highways will then submit a preliminary plat to us that they intend to open or widen a street. Other than that, we are not governed by any act of any other department.

Q Did you make any effort, Mr.Fitzpatrick, as the assessor of Baltimore City, to conceal the fact from people whose properties were to be reassessed, there was to be any improvement on Druid Hill avenue and McCulloh street?

A No, no one came to the office. If you came

to the office or anyone asking questions, we were perfectly willing to answer them at all times. Our records are always open to the public, the law requires them to be open to the public. If anyone asks us now what section we are going to review for the year 1950, we will tell them.

Q Did you make any effort to conceal from anyone, until it was too late for them to appeal the assessment, the fact that McCulloh street and Druid Hill avenue would be made into one-way streets?

A No. Every notice would be mailed out and return date thereon prior to the first day of October.

Q Did you hide from these people any information with respect to their assessments?

A No.

Q Mr. Fitzpatrick, once an assessment is made -- I think you said there are twenty days in which an appeal can be taken from an assessment. To whom is that appeal taken?

A To the Board of Municipal Zoning Appeals.

Q If that appeal is not taken within twenty days, are the persons whose properties are reassessed powerless to do anything about that reassessment for the next five

years?

A Not for the next five years. For that particular year they may at any time file a petition to the Department of Assessments prior to the first day of July, asking for a review for the next taxable year. We will make that particular examination and notify them on the first day of October of what action we have taken.

Q If a petition is filed for review, do you consider other factors that may have intervened between --

A We take the facts as we find them on examination on that petition.

THE COURT: Take the present case; anybody who is a party to this case or any other person out in that section that you reassessed in 1947, could come in this year before the first of July and appeal to have the assessment reduced, could they not?

THE WITNESS: Yes.

THE COURT: In fact, they can do that anywhere in the city, can't they?

THE WITNESS: Any time of the year.

REDIRECT EXAMINATION.

By Mr. Houston.

Q That would not give them any relief, however, as to the 1947 assessment, would it?

A No, not for the year they filed the appeal.

Q So that if the action in naming Druid Hill avenue and McCulloch street one-way arterial thoroughfares did not actually go through the City Council until more than twenty days after your assessment, then that assessment would be fixed for that particular year and there could be no relief by administrative proceedings?

MR. O'DUNNE: I object to that. I think the date the ordinance went through the City Council has nothing to do with it.

THE COURT: I don't know as I know what Mr. Houston means. I think he means within the current year this Ordinance became effective, this plan, whatever it was, came twenty days too late for the people in that district to do anything by the way of appeal.

MR. O'DUNNE: No, the ordinance was passed in March, 1948.

THE COURT: Then it does not apply to this case.

MR. HOUSTON: This is our theory, your Honor.

Our theory is that the city had made up its mind and was committed to naming these streets as one-way arterial thoroughfares ---

THE COURT: When?

MR. HOUSTON: It had made up its mind in 1946 and was committed to it. Then in 1947, it had the assessment raised. Knowing all of this, and they all had started on the execution of the plan because we say it cannot be separated, then it did not put the thing through so as to give the people opportunity for a legal test, because, as Mrs. Jackson testified, the question became in the paper, at least, whether they were going to put it up on Madison avenue.

THE COURT: As a matter of fact, you had until the 1st day of July in 1947 to appeal the assessment.

MR. HOUSTON: No, in 1948. The assessment did not come out until 1947 and the ordinance was in March, 1948. It would only be prospective for the next year.

THE COURT: Oh, no.

MR. HOUSTON: Yes, sir. You could not go back and make it retroactive.

THE COURT: You could not do that, but it would

be for the assessible basis as of October 1st, 1947.
Of course, it would be for the next year.

MR. HOUSTON: But then they would owe the taxes
for 1947 and 1948, and there could be no relief in that.

THE COURT: But you could not get back there
anyhow.

MR. HOUSTON: You could have if you had been
familiar and they had disclosed this fact.

THE COURT: What is the date you think they
should have disclosed it?

MR. HOUSTON: I think they should have done it
at the time the assessment went through. I don't think
the city can say the right hand does not know what the
left hand is doing. I think it is all part of one govern-
mental agency. I think there is a positive duty, under
those circumstances, to acquaint the assessor with the
facts and to take those facts into consideration.

THE COURT: He has told you he could not assess
it prospectively.

MR. HOUSTON: Then it gets down to the question--
because I was going after that on his statement, of the

total valuation.

THE COURT: What is the question, Mr. Coetz?

(Question read by the reporter.)

THE COURT: I think you will have to change the question. I will sustain the objection.

Q Let me ask it this way: When is the property taxed, as of what date?

A Do you mean when our tax is due?

Q Yes.

A January 1st.

Q So that when did your assessment, increase of assessment made in 1947 become effective as a basis for the taxes January 1st, 1948?

A On October 1st the assessments are officially concluded.

Q And that assessment was used as a base for the tax which was assessed for January 1st, 1948?

A Yes.

Q And any petition that was filed on July 1st, on or before July 1st, 1948, would not affect the tax which was assessed January 1st, 1948, but could only effect the tax to be assessed January 1, 1949; is that correct?

A That is correct.

THE COURT: I did not get your explanation of the twenty days.

THE WITNESS: The twenty days notice means that we have reviewed the property and that it becomes official on the first day of October and they have the right of appeal from our decision from the first day of October to the Board of Municipal Appeals.

Q You have stated the total valuation of the City of Baltimore in 1931, is that correct?

A Yes.

Q And you stated that was \$1,470,000,000?

A No. I stated it was \$1,201,000,000.

Q And I understood you to say that fell?

A It fell to such an extent that it was not reached again until 1947.

Q Can you tell me whether the property in Druid Hill avenue and McCulloh street fell?

A In every section of the city. Most people don't know when their property is reduced. If we reduce property we don't give them any notice because the very fact of

our not giving them notice is to invalidate the assessment and if they would want the assessment invalidated, it would go to a higher figure, so we don't send a notice when we reduce property.

Q That isn't my question.

A That is the reason I say most people don't know that the property has been reduced. But I could not say that the property 1302 Druid Hill avenue was reduced, but the chances are that in every section of the city in which we went property was reduced.

Q But you won't say that this particular restricted area of Druid Hill avenue and McCulloh street, as a negro residential area, the property fell, would you?

A Undoubtedly it did. I haven't the figures before me to say what happened, but the chances are inasmuch as we reduced property all over the city that we reduced it there also.

Q Do you want to say or are you ready to say that the sales prices of property for negro residential property on Druid Hill avenue and McCulloh street fell during the 30's?

A It fell every place during the 30's.

Q You are willing to say it fell there during the 30's?

A Yes.

Q Are you prepared to say how much?

A No, I am not prepared to say how much. I would have to have figures before me.

Q Let me ask you this question: Are you prepared to say that the prices of negro residential property on Druid Hill avenue and McCulloh street did not reach the 1931 prices until 1947?

A I would not say in the year 1947, no. It undoubtedly reached them again some time between 1942 and 1947.

Q Are you willing to say ---

A There was a steady reduction from 1931 until 1939. In the year 1940 was the first increase in the assessible real property basis during all of that time and the increase was only \$600,000. Every year after that the increase was slightly more. In 1947 it was \$82,000,000. At least for 1948 it was \$82,000,000, and for 1949 it was \$90,000,000. It had increased from \$600,000 increase in

1940 up to \$80,000,000 and \$90,000,000.

Q That still isn't my question. My question is, are you prepared to say that the prices, market value prices as reflected in sales of negro residential property on Druid Hill avenue and McCulloh street, from Fulton avenue north, did not reach the 1931 prices until 1942?

THE COURT: You don't mean Fulton avenue north.

Q I mean Dolphin street north, it did not reach the 1931 sales prices until 1942?

A I would say that the trend was. I cannot pick out any particular property. I refuse to pick out any particular property, but I can take the general trend of values, which decreased during the 30's, then started to rise again in the 40's, and this is most likely applicable for the entire city, but I am not going to cite any particular property.

Q By not citing any particular property, you mean not citing any particular area, because I am not asking you about any particular property?

A Any particular area, yes. I am not going to make any statement unless I have figures before me.

Q Will you tell me in the law where your standard

is that you take the actual present value ---

A Section 11 of Article 81 says the property shall be assessed at the full cash value on the day of finality.

Q Is that the Maryland Code?

A That is the Maryland Code.

Q What is the article?

A Article 81, section 11.

Q (Reading)"Except as herein provided, all property directed in this year to be assessed shall be assessed at the full cash value thereof on the date of finality." Now, I understand your interpretation of that is that in 1947 you assessed on the basis of the sales in 1942 and 1943?

A My conception of the full cash value was the 1942 and 1943 sales.

Q As the value in 1947.

A Yes.

MR. HOUSTON: That is all.

(Testimony of the witness concluded.)

Thereupon - - -

MILTON P. BROWN,
603 Avondale Road,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Mr. Brown, are you executive secretary of the Baltimore Branch of the NAACP?

A I am.

Q As a matter of qualifying you for the testimony to be given, will you state whether you are a graduate of Western Michigan College of Education?

A I am.

Q Have you completed your master's work for your master's degree?

A At the Madison School of Social Work. I have completed all the academic work except the thesis, which is in process of completion at this time.

Q Was your specialty community organization?

A Yes, sir.

Q How long have you been in Baltimore?

A Since February 1st, 1948.

Q As part of your work, have you conducted a survey and supervised a survey to determine the experience, real estate experience with reference to one-way streets, arterial thoroughfares, on residential properties in Baltimore?

A Yes, a heavily traveled traffic street.

Q Has it included a comparison of values of the types of houses found on Druid Hill avenue and McCulloh street?

A That is correct.

Q Was that by an inspection of the City records as well as house to house canvas?

A It was both.

Q For whom were you making that study in connection with the preparation of this case?

A We were making it at the request of the citizens speedway committee.

Q Under whose direction were you making the study?

A Under Mr.Frederick M.Babcock.

Q Do you recognize Mr.Babcock here today?

A Yes, Mr.Babcock is sitting there in the back seat.

Q Would you tell us what details you covered in your survey?

A On our house to house survey the following questions were asked of the individuals and residents of that particular section: First of all, we gave the address, the date of the interview, the person interviewed, the type of dwelling, the material, the age and yard space, the number of stories and the number of rooms. Under use, the income, whether it was owner occupied and the income weekly or monthly and the rental, whether it was a rental property, income weekly or monthly, or commercial value of apartments, rooming houses, or other uses. Under sales price, checked the previous sales price, the last sales price. Under length of occupancy, whether it was owner rented or tenant occupied, the number of years and the number of months. Together with the comments which were entered at the discretion of the interviewer.

Q Did you also make a comparison of comparable houses on a back street and a heavily traveled thoroughfare in the same neighborhood?

A Yes, that is correct. That was the procedure.
MR. HOUSTON: Your witness.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q From your studies here in Baltimore what other one-way streets have you examined with respect to the change in the property values?

A Franklin and Mulberry and Calvert and St. Paul, a spot check.

Q What about Cold Spring Lane and Wendover Road?

A No, they were not included in our survey.

Q Isn't it a fact certain places on Calvert street have increased in values due to the fact that professional offices are being established there?

A That may be. I am not equipped to answer that question.

Q Did you conduct this survey personally?

A I did not make the interviews personally. I consulted the interviewers. We prepared the survey form and we reviewed the areas to be covered, and they were reported back to us for clearance.

Q Your survey, I assume, is based largely on the reports that were made?

A That is correct.

Q Those reports, for the most part, consist of answers put to property owners or occupants of the property?

A The occupants of the property.

MR. O'DUNNE: All right.

REDIRECT EXAMINATION.

By Mr. Houston:

Q It also included a study of public records, did it not, as to sales?

A Yes, that is correct.

MR. HOUSTON: If your Honor please, if there is any question as to the authenticity, we have the interviewers themselves, who are students of the University of Maryland Law School, and I just put it now to

Mr. O'Dunne if he is willing to accept these or whether he wants me to call each individual interviewer.

MR. O'DUNNE: I think they brought back accurate reports.

MR. HOUSTON: Well, then, you don't want the individual interviewers.

MR. O'DUNNE: I am not going to call them.

MR. HOUSTON: That is all.

(Testimony of the witness concluded.)

Thereupon - - -

FREDERICK M. BABCOCK,
6410 Meadow Lane,
Chevy Chase, Maryland,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Houston:

Q Your business address, Mr. Babcock?

A 1028 Connecticut avenue, Northwest, Washington,
D.C.

Q What is your professional field, Mr. Babcock?

A Real estate consultant and evaluation.

Q Does that include the matter of rating of investment risks, analysis of projects, evaluating real properties and urban problems?

A Yes, it does.

Q Will you give us something of your business background?

A I have been active in the real estate and real estate consultant appraisal field since 1920, commencing with a rather rich experience all during the 20's in connection with the value of property in thirty-seven States, the United States and in Canada. I was at one time an assistant administrator of the Federal Housing Administration, in charge of all the technical matters having to do with the acceptance of mortgages insured by FHA. I have been on the appraisal staff of the Prudential Insurance Company at one time.

Q About the FHA, may I ask you whether you organized and operated the entire rating staff of the FHA.?

A Yes, I did.

Q Did you establish the techniques of the Merit System and the Training Program?

A Yes, I did.

Q Were you fully responsible for all case decisions in FHA?

A I was.

Q Will you tell us about your work for the Prudential Insurance Company?

A With the Prudential Insurance Company I was an appraiser advisor on the home staff of the company, and that work comprised two principal fields. One was looking at important projects, at that time ^{we} were in the depths of the depression, which were offered for foreclosure and determining upon a program in which the company could get out of the investment expeditiously. The other activity in which I engaged for them consisted largely of surveying various lending areas of principal cities and suggesting the basis on which they could get into those cities with their lending program.

Q Will you state whether you have been a member of the Research Faculty School of Business, University of Michigan?

A Yes. Part of the year 1931 and part of the year 1932, I was on the Faculty of University of Michigan.

Q Will you state whether you have been on the faculty handling the matter of real estate appraising and the school of Commerce at the Northwestern University?

A Yes. I have taught in the business school there for a short period.

Q And the YMCA School of Commerce in Chicago?

A Yes, but it was a great many years ago.

Q George Washington University?

A Yes, that is recent.

Q Have you given appraisal courses in the American Institute of Real Estate Appraisals?

A Yes, I have.

Q And you have been an author of several books and you have contributed to professional journals?

A Yes, I have.

MR. HOUSTON: May I ask that it is now accepted that he is qualified in the field of appraisals?

THE COURT: I would like to hear something further as to his experience in appraising real estate in

Baltimore.

MR. HOUSTON: I am not expecting to use him as to the appraisal of specific properties in Baltimore. I am expecting to use him as an expert to determine the effect on real properties, of residential properties, by the designation and use of them as thoroughfares. I will put on a Baltimore real estate man to testify as to the effect on the specific properties.

THE COURT: Do you object?

MR. O'DUNNE: I do, and I would like to explain why. I don't see how he is going to forecast the effect of one-way streets on property in Baltimore.

MR. HOUSTON: May I also say he has conducted a survey, that a survey in Baltimore was conducted under his direction, and in that respect I mean to say he does have the experience and I am going to bring that out, experience as to the effect of the one-way thoroughfares on the streets of Baltimore and neighborhoods comparable to the neighborhoods of McCulloh street and Druid Hill avenue, but I was not going to have him appraise specific properties.

THE COURT: I think you had better go ahead and ask him your questions. I will take it subject to exception and see what it brings forth.

Q Mr. Babcock, have you rendered a written report as the result of your survey?

A Yes, I have. On October 18th, I presented a report to the Citizens-McCulloh Street-Druid Hill Avenue Speedway Committee of Baltimore.

MR. HOUSTON: I should like to ask that this be introduced as the basis for the examination. I have furnished Mr. O'Dunne with a copy.

THE COURT: I think if he made a report he can use it to refresh his memory, but I do not think he should tell us just what is in the report.

MR. HOUSTON: All right, your Honor, I concede that and accept your Honor's suggestion.

Q Mr. Babcock, let me ask you first whether from your experience in the thirty-seven States and Canada, and also your experience with the Federal Government, you can state whether the conversion of ordinary residential streets into arterial thoroughfares, increases the load of traffic?

MR. O'DUNNE: I have an objection to this.

THE COURT: Generally whether it does or not?

MR. O'DUNNE: Yes.

THE COURT: Overruled, give you an exception.

A Within my experience, the presence of traffic, the greater the amount of the traffic the lower the value would be; all other things being equal.

Q Will you explain the ways in which the traffic causes the lowering in value?

A First of all, value of real estate is related to the usefulness of real estate. In connection with the use of real estate, of residential properties, the presence of traffic, at least, that is, primarily the volume of traffic and the character of traffic, that does the damaging. I have in this report summarized the major factors in the traffic which, in my opinion, depreciates the value of real estate. That list includes the physical danger that is present from the presence of the traffic. Number two here would be the noise. Number three is the turmoil and confusion that accompanies fast moving volume of traffic. Another item is dirt. The next item here is one that I think is very important, the size of the

vehicles. Larger vehicles are much more damaging to residential values than are ordinary passenger cars. Another one in the list is limited circulation, by which I am making reference to the difficulties of parking. This would relate to one-way operation streets, for instance, the fact that people are not free to move away from their own properties or to go toward them, but have to make a rather studied detour in circulating to use automobiles in connection with their property. The next item I have mentioned here is the fact that all of the factors permeate and become particularly important in relation to children. And the last one in this list is the matter of the hours of street use.

Q Will you elaborate on that for us a bit?

A On the hours of street use I am referring to the fact when streets become arterial highways and invite the use of the streets by freighting vehicles, we have to consider the fact that they are very frequently used during night hours. The trucks, a large number of trucks usually are loaded during the day and make their trips at night. So that where streets are used to accommodate that type of traffic, the traffic period that would disturb the abutting

owners may be greatly extended; in fact, in some cases, may run all night.

Q Is this traffic volume one that is generally considered in making appraisals of real estate values?

A Oh, definitely. In appraising residential real estate an appraiser should take into account everything that relates to the enjoyment or the impairment of the enjoyment of the property by the occupants, and it would be an incorrect appraisal to neglect to take into account traffic factors.

Q May I ask whether that was recognized officially by the Federal Government in its Federal Housing Manual?

(Question objected to.)

THE COURT: I sustain that.

Q By saying you take into consideration traffic conditions, that would go to the matter of traffic conditions having an influence on personal safety as well as the convenience of the residents of the neighborhood, would it not?

A Yes, it would.

Q If a plan was in process of execution which

would change a street from a residential, ordinary residential street to a one-way arterial thoroughfare, would that be such a pressing condition that it would be taken into account in making an appraisal?

(Question objected to; objection sustained.)

Q Does an appraiser take into account the condition of traffic in the neighborhood and also the projected use to which the street is to be committed?

(Question objected to.)

THE COURT: I sustain that. I think he has answered that question.

Q Let me ask you this question: Do purchasers also take into account the factor of traffic conditions you have just spoken about?

(Question objected to; objection sustained.)

Q Do those traffic conditions which you have just itemized reflect themselves in sales of the property?

(Question objected to; objection sustained.)

Q Does the desirability of the property as residential property, as reflected by the conditions which you have mentioned, affect its sale value?

(Question objected to; objection sustained.)

Q Have you made a personal inspection of McCulloch street and Druid Hill avenue?

A Yes, I have.

Q In your opinion, are they the types of street, north of Dolphin, which would be desirable residential neighborhood?

MR. O'DUNNE: I object to that. He has made an inspection of the streets and that is all he is familiar with. Now, he is being asked whether, as an expert, they are desirable residential streets in this city.

THE COURT: I think I will have to sustain that.

Q Let me take that back and let me ask you this: Have you made any inspection or investigation of the residential property in the 2000 block of McCulloch street and the 2000 block of Druid Hill avenue?

A Yes. I have seen the properties from the street, and I have in addition to that examined them carefully and analyzed the questionnaires that were secured in the survey to which Mr. Brown referred in his testimony.

Q I will ask you to summarize the results of the interview survey reports in the 2000 block of McCulloch street and the 2000 block of Druid Hill avenue, with reference to the residential character of those streets.

MR. O'DUNNE: Are these reports made by somebody else, not by him?

THE COURT: As I understand, they are questionnaires which were supplied in the course of this survey under his direction.

MR. HOUSTON: That is right.

MR. O'DUNNE: He is going to give his conclusion of what they show?

THE COURT: He is going to try to relate them.

MR. O'DUNNE: I take it what he is going to do is to say, based on these reports, in Baltimore City, in these sections, you have this situation. I don't think he has been qualified as an expert on the streets of Baltimore sufficiently to enable him to do that.

THE COURT: I do not think he is going to do that. I think what he is going to say, or he can say very well if he wanted to, I saw those two blocks. They

are residential blocks, they are dwelling houses, three story brick front dwelling houses. Now, I have some questionnaires which show what is inside of them. Knowing what I know of the outside and having been supplied by the questionnaires and what they show about the inside, they are residential dwellings. Then he goes on to say whatever he wants to say.

MR. HOUSTON: That tabulation is on here. I am just calling that to Mr. O'Dunne's attention.

(Question read by the reporter.)

A The figures shown on this chart represent the results I found by reviewing the questionnaires and tabulating the results. There were thirty-seven interviews of occupants, thirteen of them on Druid Hill avenue and twenty-four on McCulloh street. I found that twenty of the thirty-seven represented structures that were owner occupied. That is, the owners of the properties were also the sole occupants of the properties. Five only of the thirty-seven properties were what we define as rental properties on the form, by which we mean that the owner was in the property occupying it himself but rented out space to additional families or groups or lawyers, or some-

thing of the sort. Then the third classification, the remainder, there were twelve cases classified as commercial, by which we do not mean retail commercial, but we mean the property is owned by an absentee owner and all of the space in it is occupied by tenants of the owner.

THE COURT: That was how many?

THE WITNESS: Twelve cases, sir. The same figures divided into percentages indicate that the percentage owner occupied on the two streets was fifty-four per cent. That percentage on McCulloch street was 59% and on Druid Hill avenue 46%. The percentage of properties that were rental properties, defined as I did define the word, "rental" was 14% only. That is 4% on McCulloch street and 31% on Druid Hill avenue. The commercial and the combined percentage was 32% which divides between 37% on McCulloch street and 23% on Druid Hill avenue. There was also a tally indicating the numbers of rooms. Out of the thirty-seven cases, the two largest items are eighteen cases that were dwellings with nine rooms in them and fourteen cases with twelve rooms. Then there was a scattering of five cases that had eight, ten or eleven rooms. The average number of rooms per house was calculat-

ed at 10.16 rooms. We also got some figures on the average years of occupancy. The owner occupants, that particular group of twenty families, on the average was 17.9 years. The renters had been there 15.2 years.

Q Will you state whether that survey and the analysis which you have just made, together with your experience in viewing the outside of the houses gives you any opinion as to the character of the neighborhood?

(Question objected to; objection overruled.)

A I gathered the impression that for all purposes they were of a very high grade character, and I also draw the conclusion definitely that the relative high percentage of owner occupancy and the long period of occupancy was very significant.

Q What is the average length of occupancy of owner occupied homes in the United States?

(Question objected to.)

THE COURT: Overruled, give you an exception. Do you know that?

A All I do know along that line is that in the Federal Housing Administration we made some studies of a

large number of FHA cases, literally hundreds of thousands, with tabulating machines, and we came up with a figure of 7.2 years as an average. On the other hand, there is an average of people staying in one year and some fifteen years, but the average was 7.21.

THE COURT: And very much longer, I suppose, in some cities than in others and your tabulation changes.

THE WITNESS: I think that would be true, but I don't recall the cities.

Q In your opinion, would traffic volume, volume of traffic conditions which you have just referred to affect the value of these properties for residential purposes?

(Question objected to; objection overruled.)

A I am afraid I did not understand the question.

Q Would these properties which you have just analyzed for us, would the heavy volume of traffic, through traffic on an arterial thoroughfare, adversely affect the value of these properties for residential purposes?

(Question objected to.)

THE COURT: I will sustain that.

I think you will have to ask the question another way.

Q With a decided increase in the volume of traf-

fic on Druid Hill avenue, 2000 block of Druid Hill avenue and 2000 block McCulloh street, particularly of high speed traffic and larger vehicles, what effect, if any, would it have?

(Question objected to.)

THE COURT: I think I will have to sustain that. How long have you been in Court, Mr. Babcock? Were you here yesterday?

THE WITNESS: I was here part of yesterday, most of the afternoon, and just before lunch this noon.

Q Mr. Babcock, you have heard it said here and heard the testimony of the witnesses concerning the nature of the traffic on McCulloh street, have you not?

A Yes, I have.

Q What is your opinion as to the effect of that traffic on the value of properties in the 2000 block of McCulloh street for residential purposes?

(Question objected to.)

THE COURT: Sustained. You mean the effect of what he believes would happen to the traffic under the supposed arterial highway?

MR. HOUSTON: No. I am asking him now as to what

effect -- first I will ask him this, leading up to what the present fact is, that is to say, the present volume of traffic from the testimony that he has heard here.

THE COURT: The trouble is that he knows too much about it. He was there and saw the houses.

MR. HOUSTON: I thought I had qualified him as an expert, and as an expert I will ask him a hypothetical question.

Q Let me put it another way. You have sat in the Court room and heard the witnesses testify as to the traffic conditions which have developed on McCulloch street and on Druid Hill avenue. If that testimony is true, can you state whether such traffic -- what effect, if any, such traffic would have on the values of the properties in the 2000 block of McCulloch street and Druid Hill avenue for residential purposes.

(Question objected to; objection overruled.)

A It would have a decidedly adverse effect.

Q You have heard the testimony that the purpose of designating McCulloch street and Druid Hill avenue one-way arterial thoroughfares is to increase the flow of traffic and volume of traffic on those streets over what

is there at present.

MR. O'DUNNE: I don't think that has been testified to at all.

THE COURT: I don't think you can tell him he has heard it and then ask the question. Then you are sort of summarizing the testimony for him and you might leave out something.

Q Let me put it this way: Mr. Babcock, I am asking you hypothetically that if the traffic is increased on those streets over what it is at present, and if in the increase in traffic you have buses, heavy trucks, what effect, if any, would that have on the values of the properties in the 2000 block of McCulloch street and Druid Hill avenue?

(Question objected to; objection overruled.)

A It would have a decidedly adverse effect, it would have the effect of lowering the values of the properties.

Q Would you say that that increase in volume of traffic on those two streets, especially including high speed traffic with buses and large trucks, would have a

proportionate adverse effect upon the value of the properties for residential purposes?

(Question objected to; objection sustained.)

Q For purposes of determining the effect of heavy traffic on arterial thoroughfares in Baltimore, have you made any study of the 1000, 1600 and 1700 blocks of Franklin street, Mulberry street and Edmondson avenue?

A Yes, I have.

Q Can you tell us why you picked those particular blocks and those particular streets?

MR. O'DUNNE: I want to make the same objection.

THE COURT: Give you an exception.

A I picked those particular streets because Franklin and Mulberry streets are heavy traffic streets, and Edmondson avenue is a light traffic street. In this connection, in the same survey there were ninety-seven interviews to determine the same kind of facts that we secured on Druid Hill avenue and McCulloh street.

Q May I ask you also as to whether you picked these blocks because the houses are comparable on all of these blocks, with the only difference being the factor

of the traffic?

A That is substantially true. As a matter of fact, on Edmondson avenue I believe the average lot was one and one-half feet narrower than on the other two streets. But that was the only physical difference that was self evident.

Q Now, then, will you give us what the survey shows and the analysis of the interviews?

A The point of this thing ---

MR. O'DUNNE: May I object to all of these questions, your Honor, to keep the record straight?

THE COURT: I don't know what you mean by that. Do you mean the same kind of analysis as you made before?

MR. HOUSTON: In the 2000 block with reference to values, yes, sir. We have the number of interviews, the character of the properties, and we have the sales value.

THE COURT: Do you mean for comparison with the two blocks in question?

MR. HOUSTON: Yes, sir, and also lay the basis for what has been the experience in Baltimore, certainly as to these blocks.

THE COURT: What you want to give us first is a

description of the houses in these blocks, isn't it?

MR. HOUSTON: Yes, I should have done that.

Q State the character of the properties, will you please?

MR. O'DUNNE: We make the same objection.

THE COURT: Overruled.

A The significant part of the survey was we found a number of sales, eleven I think, in the area. By taking those reported sales and averaging them, that is taking all of the ones on Franklin and Mulberry, we found that the average sale during that period had been --- the period was from 1940 to 1947, all of the sales reported in those years, we found that the average of those sales -- that again includes the fact we took the ground rents and capitalized them at 6%, and added them to the price paid for the leasehold estate -- we found that figure came out at \$5,308. That is the average of the sales on Franklin and Mulberry streets. Those on Edmondson average \$7,243. That is pointed out on that chart. The red one is Edmondson avenue. That is \$7,243. Taking that as one hundred per cent. and calculating the ratio of \$5,308, the pale color there to the left is 73.3%, which would indicate

that there is a difference of 26.7% attributable, so far as you can tell, to merely the difference in the matter of traffic, because otherwise the properties appear and were reported to be substantially alike. The two part color bars at the right of the chart, the green and the orange way over to the right, are exactly the same analysis except that they were based on a per room basis.

There was a slight difference in the numbers of rooms of the particular houses that have been subject to sale, and there the figures show \$631 for the sales price per room on Edmondson avenue and \$637 per room in the cases on Franklin street and Mulberry street, and that lower figure is 75.6% of the higher figure. And, again, would be interpreted in my opinion as representing primarily the percentage difference in the values of the properties.

Q Did you make a comparison of sales in the 1600 and 1700 blocks of Franklin street and Edmondson avenue?

A Yes. I have another chart, Mr. Brown, chart C, which actually includes the same properties as are in this one.

MR. O'DUNNE: I would like to make the same objection.

THE COURT: You have an objection and exception to all of this.

A This eliminated the properties in the 1000 block in an attempt to make certain that the comparisons relate to exactly parallel blocks rather than jumping all over the area. Here again the same general results are shown on a per house basis. The Edmondson avenue sales show \$7,350 average and the Franklin street sales show \$6,133, and the ratio of difference is 83.4%, that is the houses that were on the heavy traffic street. The sales indicate that they were only on a basis of 83.4% on the basis of the sales on the other streets. The other part of the diagram indicates the same thing on a per room basis and the second figure is percentage, which is 86.5%, which represents 13.5% penalty that apparently buyers of properties attached to their bidding when they are bidding for properties on these traffic streets.

THE COURT: Strike out about the penalty. It is a difference, that is all.

THE WITNESS: Yes, a difference, not a penalty.

Q Did you make an analysis of the real estate tax assessments of the city of Baltimore for 1943, concerning the 1000 blocks of Franklin, Mulberry street and Bennett Place, to determine whether the difference in the sale value is reflected in the assessments?

(Question objected to; objection overruled.)

A Yes, I did.

Q Will you give it to us as to the 1000 block in Franklin and Mulberry and Bennett Place?

A The area taken was the three opposite blocks, three single blocks on those streets, and they are all in the 1000 block and I took the "publication of real estate tax and assessments in Baltimore, 1943" which on the cover of it was purported to have been published by the Mayor and City Council, and took all of the assessed valuations reported there, that is, I added the land and buildings assessments which are presented, and made totals of them for all of the inside properties. That is, I omitted the corner properties in each case. By and large, these streets are apparently improved by identically the same kind of properties, there is no substantial difference between them. The comparison, of course, is primarily between

Bennett Place as a light traffic street and Franklin and Mulberry streets, which are heavy traffic streets. There was 21 properties on Franklin street with an average assessed valuation of \$2,181, in that year, and Mulberry street there was 17 properties which averaged \$1,708; an average for both of those streets representing heavy traffic streets, \$1,880. On Bennett Place the average of 36 properties averaged \$2,722, and the percentage difference was quite pronounced which indicated that the heavy traffic street assessments were 69.1% of the assessments of the other streets.

Q Did you also make a comparison of the 1943 real estate assessments by the City of Baltimore in the 1700 blocks of Franklin street and Edmondson avenue?

A Yes, I did. In this case the comparison relates to two single and opposite blocks, using the four street frontages form, with the corners excepted just as in the previous comparison. The Franklin street assessment evaluations relating to the 22 inside properties average \$2,410; the Edmondson avenue cases, 17 properties average \$3,217. The percentage difference is calculated in the same manner and showed that on the heavy traffic street the

assessments were 7.9% of the assessments of the other street, a light traffic street.

Q May I ask if you, in order to check your findings made a comparison of 1943 assessment in another section of East Baltimore, 2400 blocks of Orleans and Jefferson streets?

A Yes, I did. The results are shown on this chart, which shows that on Orleans street the average of eight properties, the assessments on eight properties were \$2,416; on Jefferson street, 21 properties, the average was \$2,710. The percentage difference being 10.8%. That is the difference, which is much less than in the other examples. I might point out the reason there are only eight properties on Orleans street on this particular comparison is because the physical characteristics on the balance of the front-ages were not comparable kinds of real estate.

Q Did you make a comparison of the 1943 assessments in the 2000 blocks of Orleans and Jefferson streets?

A Yes. This comparison is similar to the preceding one and relates to a pair of blocks or two blocks away from the other one. In this case, the heavy traffic street, Orleans street, there was 31 properties in the comparison,

the average assessment was \$2,463 -- that is the green part of the chart -- and the light traffic street, Jefferson street, 29 properties, the average assessment was \$2,737, and the ratio of difference is exactly 10% in this particular instance.

Q Is that experience as to the adverse effect on valuation and assessment in the case of heavy traffic streets that you found in Baltimore, reflected elsewhere in the country?

A I am of the general opinion, of course, that heavy traffic impairs value. It is a very difficult thing to measure, in any event, and this was my attempt to get at it and measure it in any way I could in order to be helpful. I did check it and, of course, am very familiar with Washington, D.C., real estate, so I did almost the identical type of work in Washington just to see what the results would be and made a comparison of tax assessments for the current tax year in this case in Washington, D.C.

Q What did you find?

MR. O'DUNNE: I object to that.

THE COURT: It is interesting, but I am not sure it would have a direct bearing on this case.

Q As to Baltimore, what is your finding as to the extent of valuation impairment apparently in similar properties based upon the difference of being on a heavy traffic street and a light traffic street?

A By scanning all of these cases and the findings related to them, I arrived at the opinion that the value impairment due to the heavy traffic as against comparatively light traffic is somewhere in the neighborhood of between 15 and 25%, or, say for convenience, that it is 20%.

Q Does that reflect the only difference in value of property or desirability of property for dwelling purposes as being on a light traffic street and heavy traffic street?

A In my opinion, no, it does not. The assessments that were used as the basis of the comparison are, of course, in part very definitely related to the sales values, the prices that the assessor himself has observed by keeping track of the records of sales. Some of the comparisons, the first two, were based on reported sales, I am under the impression, in the case of properties occupied by negroes, as all of these properties

in the comparisons are, and if there is any error it is in the direction that the percentages actually are greater because, in general, the negroes do not have the opportunity and flexibility of movement, and during the periods of a housing shortage which we had during the war and since, they don't have freedom of movement and may be logically presumed to have paid more for properties on the heavy traffic street than they would if they had complete freedom of choice.

Q So there is an artificial support of the price values on the heavy traffic streets under such circumstances?

A That is my opinion.

Q Will you tell us the elements which are considered in determining the value of residential properties for assessment purposes?

MR. O'DUNNE: Isn't that a legal conclusion?

THE COURT: I believe it is, and his construction of it in Ann Arbor and in Washington might be different than what we use here. If it is true they are all supposed to use the same methods in the same town nobody gets hurt by it.

MR. HOUSTON: Your witness.

CROSS-EXAMINATION.

By Mr. O'Dunne:

Q Did I understand you to say, Mr. Babcock, you are a member of the American Institute of Real Estate Appraisers?

A I am and have been. I was a charter member. I have been during the entire life of the institute, I was one of the organizers.

Q Did you compare some other streets that you considered heavily traveled streets with lightly traveled streets, and did not make a chart showing results?

A One other case. The St. Paul-Charles streets because up there -- North avenue I mean and St. Paul because of their heavy traffic, are comparable for comparisons and I spent many, many hours driving through that whole district in seeking out cases where there would be no question as to the fact the real estate was comparable, and I found it exceedingly difficult to find cases, so we did drop that. We did give consideration to it.

Q Did you take traffic counts to determine what

was a heavily traveled street and what was a lightly traveled street?

A Not in connection with the survey. In fact, all during the work I am screaming very loudly and putting in long distance calls to Mr. Brown to get specific information on traffic counts on the various streets we were comparing ---

Q Who is Mr. Brown?

A This is Mr. Brown (indicating). He is working with me on this thing --

Q The answer is that you did not take any traffic counts, is that right?

A I took no traffic counts myself.

Q In computing the 1943 assessments, did you compare sales of the property in the vicinity of 1943?

A No, I did not.

Q But there was no reason for you to believe the assessment in 1943 was not based on sales that took place in 1943 or some other year?

A Well, I would not presume the assessor had taken sales into account in arriving at those figures.

Q Have you ever appraised property for professional people that were located on heavily traveled streets?

A Professional people?

Q Like a doctor or engineer, real estate men?

A As a matter of fact, I appraised a house in Washington on a heavily traveled street for a doctor just last week.

Q Isn't it a fact some professional people prefer to be located on heavily traveled streets?

A Oh, yes, funeral homes and all sorts of commercial ventures are very apt to seek out such streets; but as a place to live hardly.

Q I am asking you about, first, professional people?

A I can think of some doctors who would seek such streets.

Q And probably some real estate persons who would, too, wouldn't there be?

A Yes, I know of such cases.

Q You did not eschew Connecticut avenue inde-

tablishing your office and that is a heavily traveled street, isn't it?

A I am in an office building.

Q Do you think the office building is less valuable because it is on Connecticut avenue as being opposed to, perhaps, 20th?

A No, it is very suitable for an office building.

Q As a matter of fact, it is very much more valuable because it is on Connecticut avenue, isn't it?

A Yes, indeed.

Q Going north on Connecticut avenue there are lots of apartments out there, are there not?

A That is right.

Q As a matter of fact, there are hardly anything but apartments from the time you leave Orleans street until you get practically to Chevy Chase, isn't that true, after you pass the up town shopping center?

A Well, I suppose half of the frontage is occupied by apartments.

Q You know where Tilden Garden Apartments are don't you?

A Yes.

Q They are cooperative apartments, aren't they?

A That is right.

Q They are among the most expensive apartments to be found in Washington, aren't they?

A About 85% of those apartments face away from the traffic.

Q 85% of them are also located on Connecticut avenue, aren't they?

A No.

Q You are saying Tilden Garden Apartments is not located on Connecticut avenue?

A I am saying part of it is, but there are back courts and the architect worked tooth and nail obviously to make use of them.

Q There are a large number of apartments facing Connecticut avenue in the Tilden Gardens apartments, are there not?

A Yes.

Q As a matter of fact, all of those apartments on Connecticut avenue are quite valuable pieces of real estate, are they not?

A Definitely.

Q Isn't one of the factors that makes them valuable the fact they are located on Connecticut avenue?

A The fact they are located on Connecticut avenue, but the Connecticut avenue traffic damages them. The reason why they are valuable on Connecticut avenue is purely the transportation access to down town.

Q Connecticut avenue traffic flow has increased in the last few years, has it not?

A Yes.

Q And also the values of properties have increased on Connecticut avenue in the last few years, have they not?

A Yes.

REDIRECT EXAMINATION.

By Mr. Houston:

Q In your opinion, does the fact that the traffic on Connecticut avenue holds the value down below what it would be if located on a side street?

A In my opinion, if you isolate the factor of traffic alone, it damages all residential property on

Connecticut avenue. It is true Connecticut avenue has other virtues, other virtues from a residential point of view, especially in apartments, and is a very valuable street. If you isolate merely the traffic item, it has a higher value.

Q There are no properties involved on McCulloch street or Druid Hill avenue which are in any way comparable to properties on Connecticut avenue, which Mr. O'Dunne has been cross-examining you about, are there?

A No, properties on Druid Hill avenue are old row houses, built out practically to the street; nothing but the sidewalk. I imagine the majority of them are right on the building line, the private property line. The Connecticut avenue apartments to which Mr. O'Dunne referred run clear up and down the street. There is first of all--- I don't recall the exact number of feet, but there is a building line that is well back, requiring private lands. In addition to the sidewalk, many of the owners have pulled back, I think, even to erect apartments. I do know from personal experience that the architects worked tooth and nail to design the apartments so they would get the advantage of the Connecticut avenue addresses, Connecticut

avenue transportation, but the individual apartments they tried to throw back to the other frontages to the maximum degree they could design them.

Q Mr. O'Dunne questioned you about the desirability of some of these properties on thoroughfares for professional offices. Are the properties in Druid Hill avenue and McCulloh street readily adaptable to conversion over to offices?

A Does your question refer to doctors and possibly real estate men?

Q Yes, I will put it that way.

A Well, no, in my opinion they are not. In both lines of work the matter of parking would be a vital thing to the conduct of the business and the source of the business, whatever value there might be of showing a sign to passing automobiles destined to suburban zones would be negligible.

Q Even in cases where professional offices are located on heavily traveled streets, there is a necessity for parking facilities and so forth on side streets, is there not?

A Yes, or on private land.

Q So that the lack of parking facilities at the office is still a handicap to a professional office on a busy street?

A That is right.

MR. HOUSTON: No further questions.

THE WITNESS: I am not sure but what it is a violation of Zoning in many instances.

REGROSS-EXAMINATION.

By Mr. O'Dunne:

Q Do you know how the property is zoned?

A I don't know from the records, no.

Q Do you find it easier to park at 1028 Connecticut avenue or thereabouts than you think you could park off McCulloh street or Druid Hill avenue?

A I think it is easier at 1028 Connecticut avenue because we have parking lots right back of the building. There are three of them.

Q As a matter of fact, it is practically impossible, as a practical matter, to park on the street in front of the office building, isn't it?

A Yes.

(Testimony of the witness concluded.)

(NOTE: Not concluded, to be resumed at a
later date.)

IN THE CIRCUIT COURT No. 2 OF BALTIMORE CITY

* * * * *

R. GARLAND CHISSELL,
et al.,

Plaintiffs,

vs.

The MAYOR & CITY COUNCIL
OF BALTIMORE, a Municipal
Corporation,

Defendants.

:
:
:
:
: Before Judge E. Paul Mason
:
: No. 29495-A-57
:
: 297/1948.
:
:
:

Baltimore, Md., January 12th, 1949.

Pursuant to adjournment, the above-entitled case
was resumed before Judge E. Paul Mason, in the Circuit Court
No. 2 of Baltimore City, on Wednesday, January 12th, 1949,
at ten o'clock in the forenoon.

Present, Counsel for the respective parties.

Mr. HOUSTON: If your Honor please, I should
like to offer in evidence the Report to the Commission on
City Plan of the City of Baltimore, by the Advisory Engineers,
dated January 29th, 1942, at page 64. That is the Gold Street
Ordinance. May I read it?

The COURT: Yes.

Mr. HOUSTON: This is the Report to the Commission on City Plan of the City of Baltimore on Present and Proposed Physical Facilities.

The Commission on City Plan presented us with the following list of twenty-four proposed street widenings which were considered by them as pressing and necessary as a part of a three or four year improvement program. Our comments and recommendations will be found following each of these items, except where the same conclusions apply to two projects, in which case they are listed together.

1. Auchentoroly Terrace cut-off, and a McCulloh Street and Cloverdale Road, via Druid Hill Park and Tioga Parkway to Reisterstown Road. Proposed width 54 feet between curbs. Cost of property acquisition and razing, none. Cost of construction, \$217,000.00. Total estimated cost, \$217,000.00.

This improvement has merit since McCulloh Street has been designated as a through highway and is heavily traveled morning and evening. However, we are opposed to undertaking it for the following reasons:

McCulloh Street traverses a solidly built negro

section, with two large public schools facing it. It is now carrying as much traffic as it can well handle, and the opening of the proposed outlet would tend to increase its use.

I would like to put in evidence Order No. 42685, passed October 9, 1946, in the Matter of the Application of the Baltimore Transit Company for approval to convert certain of its rail lines to free-wheel operation and to reroute certain of its rail lines.

Mr. O'DUNNE: I note an objection to that. I don't think it is relevant to this case.

Mr. HOUSTON: I call your Honor's attention to No. 5 Line.

The COURT: 5 Line, on which page?

Mr. HOUSTON: On page 4. That is the bottom of page 4. The point of it is that the route which is now proposed was at that time approved to be routed down Madison Street and Pennsylvania Avenue.

The COURT: All right, I will overrule the objection, and you read the part of it that you think is material.

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Mr. HOUSTON: No. 5 Line - Pimlico-Patterson Park - following the present route from the termini at Belvedere Car House and Manhattan Loop by Park Heights Avenue and Pennsylvania Avenue to Fulton Avenue, then by a new route continuing on Pennsylvania Avenue to North Avenue, to Madison Avenue, to Eutaw Street, to Lombard Street, to South Street, to Pratt Street, to Calvert Street, to Lombard Street, returning over same route.

NOTE: Paper above referred to, having been offered in evidence was filed and marked Plaintiffs' Exhibit No. 22.

Thereupon---

ARNETT FRISBY,

a witness of lawful age, produced on behalf of the Plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION:

By the BAILIFF:

Q State your name and address?

A Arnett Frisby, 517 North Arlington Avenue.

By Mr. HOUSTON:

Q What is your business, Mr. Frisby?

A I am a real estate broker.

Q How long have you been a real estate broker in the City of Baltimore?

A 19 years.

Q Are you acquainted with the territory or the area of McCulloh Street and Druid Hill Avenue?

A Yes.

Q Will you state whether you, in the course of your business, have had occasion to make loans and sales in those territories?

A I have.

Q Will you state whether your business keeps you in constant touch with those territories?

A Yes.

Q How long have you been familiar with the territory in a professional way, as a real estate broker for loans and sales?

A For the 19 years I have been in the business.

Q Have you also made appraisals?

A I have, sir.

Q I will ask you as to whether the property in that neighborhood decreased in value between 1931 and, say, 1943?

Mr. O'DUNNE: Objected to generally.

The COURT: Whether it decreased in value?

Q (By Mr. Houston): Did sales prices in that neighborhood drop between 1931 and 1941?

Mr. O'DUNNE: Objected to.

The COURT: I think it is objectionable. I will sustain the objection.

Q (By Mr. Houston): Mr. Frisby, in your opinion, did the property values in--- were you acquainted with the property values in 1931 in those neighborhoods?

A Yes.

Q Were you acquainted with the property values in the same properties, the same area during the period of the depression, during the thirties?

Mr. O'DUNNE: Objected to. I can not follow this myself.

Mr. HOUSTON: I will tell you what it is. Let me make a tender.

The COURT: Suppose you tell me what the purpose is.

Mr. HOUSTON: The testimony of Mr. Fitzpatrick, who is in the assessors' office, was that property in Baltimore depreciated during the thirties and just got back to its normal basis along about 1941 or 1943, that the increase in the value of assessments in 1947 simply represented the normal increase in values in Baltimore. I want to show, as far as these properties are concerned, that is not true, that these properties never decreased in value; as a matter of fact, they increased in value, and they increased in value due to the artificial nature of the restrictions upon negro residential expansion; and that is a factor which shows the fact of the importance of those places, and the special damages these people will sustain as a result of the proposed conversion of Druid Hill Avenue and McCulloh Street as one-way streets.

The COURT: I don't see how you can tie that up with this project.

Mr. HOUSTON: Let me ask him this question:

Q (By Mr. Houston): Do you have your offices or residence in this same area?

A Yes, I do.

Q Which?

A I have both.

Q Will you state, in your opinion as a real estate man, whether the designation of these streets as one-way express thoroughfares will affect the value of these properties for residential purposes?

Mr. O'DUNNE: Objected to.

The COURT: You won't be willing to concede that?

Mr. O'DUNNE: I will concede that with every increase of traffic the neighborhood is affected. The Court of Appeals said it in the Farber case, when they were building St. Paul Place, that there is---

Mr. HOUSTON: There are two angles in this: one is the question of opening express streets, and the other is the increased taxation.

Mr. O'DUNNE: This is not a proceeding to reduce the tax assessment.

The COURT: I will let him answer the last question. Read it.

(Question read by the Reporter).

A I think it will affect the value of the property.

Q (By Mr. Houston): Do you have any authority, besides your own opinion, on this?

(Question objected to; objection sustained; exception noted).

Q (By Mr. Houston): Can you estimate about how much you think that the designation of these streets as one-way streets will affect it?

The COURT: Don't you think you should ask him how it will affect the value?

Q (By Mr. Houston): Will you say whether it affects it adversely or beneficially?

A I would say adversely.

Q Can you give any estimate, measurement, as to the adverse effect on the valuation?

Mr. O'DUNNE: Objected to.

The COURT: If you want him to do that, you will have to take each property and go over it. That will be a tremendous job.

Q (By Mr. Houston): Let me take your own property. Are you acquainted with Mrs. Jackson's property and your own property?

A Yes.

Q And the Mitchell property?

A I am.

Q Will you state what, in your opinion, is the fair market value of your property?

(Question objected to).

The COURT: Do you mean now?

Mr. HOUSTON: Yes.

The COURT: I will let him answer that but tell me what property it is.

A Do you mean my residence?

Q (By Mr. Houston): Yes.

A I would say the fair value of my residence would be between \$6,500.00 and \$7,000.00.

The COURT: What property is that?

The WITNESS: That would be 517 North Arlington Avenue.

Q (By Mr. Houston): No, I am talking about Druid Hill?

A No, I don't have property there; I'm sorry.

Q Do you know the Mitchell property, Clarence

Mitchell property; that is 1324 Druid Hill Avenue?

A Yes.

Q Will you state what the fair market value of that property is?

A The fair market value of that property would be approximately \$7,000.00.

The COURT: You think it is worth \$7,000.00 today? I mean on the general market, and not as a tax assessor, and not as a sales agent for an owner?

The WITNESS: On the general market, yes, your Honor, I think it is valued at \$7,000.00.

The COURT: You think it is worth \$7,000.00.

Q (By Mr. Houston): Does that include the premium which negroes would have to pay on account of restrictions on places they have to have in Baltimore?

A Yes.

(Objected to; objection sustained; exception noted).

Q (By Mr. Houston): Will you state how much, in your opinion, that property would be affected by the use of Druid Hill Avenue as a one-way express thoroughfare?

(Question objected to; objection overruled;

exception noted).

A I think twenty or twenty-five per cent.

Q Are you acquainted with Mrs. Jackson's property at 1216 Druid Hill Avenue?

A Yes.

Q Will you state the fair market value of that property today?

A I would consider that the same.

Q Will you state how much, in your opinion, that property would be affected?

(Question objected to; objection overruled; exception noted).

A I would say the same, twenty or twenty-five per cent.

Q Are you acquainted with Mrs. Chissell's property, 1534 Druid Hill Avenue?

A Yes.

Q Would you give us an estimate as to the value of that property?

(Objected to).

Q Will you give us your opinion as to the fair mar-

ket value of that property? Today.

A The fair market value of the property would be about between ten and eleven thousand dollars.

Q And, in your opinion, how much would the fair market value of that property be affected by the use of the street, by the designation and use of the street as a one-way express thoroughfare?

(Question objected to; objection overruled; exception noted).

A I would say twenty-five per cent.

Q Are you acquainted with the Thomas Smith property at 1729 McCulloh Street?

A Yes.

Q Will you give us the fair market value of that property?

A \$6,500.00.

Q And how much would that property be affected by the use of McCulloh Street as a one-way expressway?

(Question objected to; objection overruled; exception noted).

A About twenty per cent.

Q Are you acquainted with the property of Mercer

Smith, 2415 McCulloh Street?

A No, I am not.

Q How about the property of Thomas Wincke, one of the houses sitting back in the yard? Are you familiar with those houses?

A Oh, yes, yes.

Q What is your opinion as to the fair market value of the Wincke property today?

A About four thousand dollars.

The COURT: Do you mean in fee? Have you ever been inside this property?

The WITNESS: Not this particular property. I am taking it from the general neighborhood.

The COURT: I don't think he can testify to the value of it; he has never been in it.

The WITNESS: I know the character of those properties up there.

The COURT: You don't know whether it has six or seven rooms?

The WITNESS: I know it has six rooms.

The COURT: You don't know the condition of it, do you?

The WITNESS: No, I don't know the condition.

The COURT: I sustain the objection.

Mr. HOUSTON: It is the same basis on which the assessors value. They don't go inside, your Honor will recall.

The COURT: They frequently do.

Mr. HOUSTON: They definitely testified on the stand they didn't go on the inside. They look at the outside and consider sales.

The COURT: I don't think he ought to testify to a property he has not examined.

Q (By Mr. Houston): ^{Boyd} Raymond ~~Boyd~~ (?) , 2466 McCulloh Street; are you familiar with that?

A Yes.

The COURT: Have you seen it recently?

The WITNESS: I have seen the property on the outside. I know the general character of the neighborhood, and have an idea of what the value of properties is in any block.

The COURT: I think that is just a general value.

Q (By Mr. Houston): Have you made sales in that block?

A Yes.

The COURT: Whether he has made a sale or not is not material. The question is whether he is familiar with that property and has examined it recently.

Q (By Mr. Houston): In appraising and estimating market value of real estate, the fair market value of real estate, residential property, do you consider the use to which the neighborhood or the street is going to be put, in estimating the fair market value of a street bed?

(Question objected to; objection overruled; exception noted).

A I do.

Mr. HOUSTON: Your witness.

Mr. O'DUNNE: No questions.

(Testimony of the witness concluded).

Thereupon---

MILTON P. BROWN,

a witness of lawful age, produced on behalf of the Plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION:

By the BAILIFF:

Q State your name and address?

A Milton P. Brown.

By Mr. HOUSTON:

Q Do you have a letter from Mr. Atkinson concerning traffic conditions?

A Yes, I do.

The COURT: Is that the Police Commissioner?

Mr. HOUSTON: Yes, sir, the Police Commissioner. It deals with the question of certain traffic experience.

Mr. O'DUNNE: I would like to object. I would like to note my reasons. This purports to be a reply from the Commissioner to a request for a lot of information, which is detailed. The Commissioner concludes by saying, Please be advised that the information desired is not available. I think that is a conclusion much too remote to be a fair inference.

The COURT: If you object to it, I think the Commissioner will have to be brought in.

Mr. HOUSTON: I certainly want to say that the

question here, of course, is we wanted to know whether there was the same traffic count and the same check on traffic on McCulloh Street and Druid Hill Avenue that they had already put out on St. Paul and the other streets. It is simply introduced to establish the fact that there is no such information in the Police Department.

The COURT: I am afraid you will have to bring him in and get him to testify.

Mr. O'DUNNE: I won't base my objection on the hearsay. I think the conclusion Mr. Houston wants to draw from the letter is much too remote.

The COURT: That is a matter of argument.

Mr. O'DUNNE: I think that is a matter of materiality, too. I won't object on the hearsay.

The COURT: If you don't object on the question of form, I will admit it. I don't know what is in it, but I ruled the way I did because I thought you had no chance to cross examine.

Mr. O'DUNNE: No, sir.

The COURT: The letter would be admissible, then. Do you want both letters in?

Mr. HOUSTON: The letter of request and the letter of Mr. Atkinson.

The COURT: It says, this association, and I haven't the letterhead. What association is this?

Mr. HOUSTON: I am sorry. This is the National Association for the Advancement of Colored People, Baltimore Branch.

NOTE: Papers above referred to were thereupon filed in evidence and marked Plaintiffs' Exhibit No. 23 and 24.

Q (By Mr. Houston): Have you made a check count of the schools in the neighborhood of Druid Hill Avenue and McCulloh Street?

A That is correct.

Q Will you state to his Honor what that check count shows?

Mr. O'DUNNE: Objected to. Simply on the ground that it is immaterial how many schools are in that neighborhood.

(Objection overruled; exception noted).

A There are nine schools in that area.

Q Can you spot them?

A Yes, they are spotted on the maps which we have

made.

Q Will you come and get them and indicate them to his Honor.

A Surely.

NOTE: Plat was thereupon pinned on the board.

The WITNESS: The area concerned--- am I at liberty to testify?

The COURT: Go ahead.

The WITNESS: The area concerned, this is Druid Hill Avenue here, this is McCulloh Street right here (indicating). Now, these schools, the orange-colored circles are junior high-schools, the blue-colored circles are elementary schools, and the green are vocational schools. This particular area, where this proposed conversion is to take place, you can see that there is a concentration of schools in the vicinity which necessitates the students of all the schools in this area, at least a portion of the students crossing these proposed one-way thoroughfares, going to and from ^{the} schools. There are two schools which are immediately adjacent to the proposed one-way thoroughfare, which would necessitate all of the students crossing one or

the other of the two streets.

Q (By Mr. Houston): Can you name those?

The COURT: Start at the most southern point and go north, and name me the schools. As a matter of fact, I think I know most all of them. I lived at one time at McCulloh Street and McMechen, many years ago, and I lived later on, for several years, out near Fremont and Lafayette. So I think I know that neighborhood pretty well.

The WITNESS: And this is the master school plan of the Department of Planning.

The COURT: Well, start at the lower end and name them.

Q (By Mr. Houston): And, if you can, give a street location for them.

A All right. School 131, which is located at Biddle near Druid Hill Avenue; School 127, which is located on Biddle near Druid Hill Avenue; School 122, which is located on Preston near Druid Hill; School 118, which is located at Lanvale near Argyle Avenue; School 125, which is located at Pennsylvania near Dolphin; School 103, which is located at Lanvale near Division, at Division I mean, near Lanvale; Vocational School 451, located at Lafayette near Druid Hill,

Druid Hill and Lafayette, and Junion High School 130, located at McCulloh and Lafayette.

The COURT: Did you name one at Lafayette and Division?

The WITNESS: Lanvale and Division is School 103. School 120, which is located at Robert near Pennsylvania Avenue, and there is also School 60, which is located at the extreme north at Clifton and Francis Street. This constitutes a rather unique concentration of schools in that particular vicinity, and none of the other proposed highways, one-way streets that are present in operation have such a concentration, have such a concentration of schools in their vicinity.

Q (By Mr. Houston): Have you made, for the purposes of this case, a study of the population density of that area, compared with other areas in the City of Baltimore?

A Yes, that is correct. The study was not made personally. We have studied the reports of authorities who have made studies. That is done in the Hubbard Report, which, I think, is the best information on that.

Q I will ask you to turn to that section of the Hub-

berd Report which deals with the matter of density of population in that area?

A This is the redevelopment of certain residential areas in Baltimore, Commission on City Plan, published July 1st, 1945. The information is contained in figure 6.

Q And what does that show, as to this area?

A It indicated that the particular area in question has over one-hundred and twenty-five persons per acre, and that is the most densely populated section in the City. Bordering on these two streets the population runs between one-hundred and one-hundred and twenty-four, and seventy-five to ninety-nine persons per square acre.

Mr. HOUSTON: Your witness.

CROSS EXAMINATION:

By Mr. O'DUNNE:

Q How does the population of the houses bordering on Pennsylvania Avenue compare with the population of those bordering on Druid Hill Avenue in that area?

A Just the population itself?

Q Yes.

A Pennsylvania Avenue is the western terminus of the particular tract which was studied, and that is in the

concentrated area also.

Q Do you have the information to enable you to answer my question?

A Will you repeat your question again?

Q How the population of Pennsylvania Avenue compares with that on McCulloch Street--- I'm sorry--- compares with that on Druid Hill Avenue?

A Well, they are both in a concentrated district, and, according to the census---

Q (Interrupting): Do you have the breakdown, so you can answer my question?

A No, not the particular street. I mean I don't know the population on a particular street. I doubt if the Census Bureau would know that.

Q One of these schools you called off is north of North Avenue?

A That's correct.

Q So I assume that children go to that school that live south of North Avenue as well as north of it, or don't you know where those children come from that go to that school?

A Well, the children that go to that particular school would come from that particular vicinity, and the

traffic flow would be affected by the conversion.

Q Do you know whether any of the children that go to that school live below North Avenue?

A No, I am not prepared to answer that question.

Q Do you know the residences of any of the children that go to any of these schools?

A Yes, we have made--- I think the principals of several of the schools have testified to that effect.

Q I mean you, yourself?

A Not the figures.

Q Two of these schools are located on Pennsylvania Avenue, if I read this map correctly?

A That's correct.

Q Do you know whether any of the children attending either one of these schools come from southwest of Pennsylvania Avenue, or live southwest of Pennsylvania Avenue?

A Let's see! Southwest? It is quite possible that the students may come from the southwest section. The basis for my making that statement was the statement which was given to me by the principals of the schools after checking their rolls.

Q Do you know whether or not any of the children going to either of those two schools on Pennsylvania Avenue are forced to cross Pennsylvania Avenue on their way to school?

A Yes, that is correct.

Q And on their way home from school?

A That's right.

Q They are?

A That's correct.

Mr. O'DUNNE: All right, that is all, thank you.

REDIRECT EXAMINATION:

By Mr. HOUSTON:

Q Is there a difference between the character of the occupancy of Pennsylvania Avenue and the character of the occupancy of Druid Hill Avenue, as to residential or business?

Mr. O'DUNNE: Objected to as leading.

Q (By Mr. Houston): What is the character of the occupancy of Pennsylvania Avenue, as compared with Druid Hill Avenue?

A Pennsylvania Avenue is largely commercial; Druid Hill and McCulloh Street, the area is largely residential.

The COURT: I want to ask just a few questions.

Q (By the Court): I know that you are sincerely interested in not only that section of Baltimore City but all of it.

A That is correct.

Q Suppose you had the designation of two streets to go through that section as one-way streets, what two would you take?

A If it was my choice?

Q Yes. That would be northwest and southeast, running northwest and southeast?

A Well, it is my opinion, and, of course, you have asked for my opinion, that Eutaw Place would be a much better facility.

Q Eutaw Place would be better?

A That's right, because, if the City is faced with an emergency as to moving traffic, Eutaw Street could be very easily widened, and the only sacrifice would be the particular space that constitutes the boulevard, and it would be one arterialed thoroughfare, and you could have two lanes on either side.

Q You couldn't do that all the way up Eutaw Place; above North Avenue it is only the width of the ordinary street.

A That is correct.

Q You would have to have another street, and, I suppose, it would have to be contiguous to Eutaw Place. Would you say that Linden Avenue would make a better north and south thoroughfare?

A If you are trying to get your arterial thoroughfares in proximity to one another, the natural other conclusion would be Madison which was originally proposed at one time.

Q Wouldn't that have the same effect practically as the two streets we are talking about?

A It wouldn't be quite as serious, in my opinion, but, however, it would be serious. Any plan of this nature is going to affect the particular area that it is placed upon. The problem is as to how greatly.

Q Isn't it a fact that Madison Avenue and Eutaw Place converge together at Madison Street?

A That's correct.

Q The lower end you would have all your traffic, north and south, running into one space?

A Yes, that is, at that point. They are faced with that same problem in the proposal, in that they would have to make another entrance.

Q Wouldn't that rule out the use of those two streets as one-way streets, if all the traffic north and south converged into one point at the southern end?

A Well, it would constitute a problem; there is no question at all about that.

Q But you think Madison and Eutaw would be better than the two streets that have been designated?

A That is my opinion. You asked me my personal opinion.

The COURT: I did. All right.

RECROSS EXAMINATION:

By Mr. O'DUNNE:

Q If Eutaw and Madison Avenue had been designated in place of Druid Hill and McCulloh, it would not have eliminated the necessity of children crossing those streets?

A No, it would not have eliminated the necessity. However, I think it would have limited the number.

Q You think more come and go through the eastern part than the western part?

A That's correct.

(Testimony of the witness concluded).

Thereupon---

CLARENCE J. ROBERTS,

a witness of lawful age, heretofore produced, sworn and examined on behalf of the Plaintiffs, was recalled in that behalf, examined and testified as follows:

DIRECT EXAMINATION:

By Mr. Houston:

Q Since you last testified has there been an accident on McCulloch Street, to one of the children going to school?

(Question objected to).

The COURT: I think that is objectionable.
It will be sustained.

Mr. HOUSTON: We are simply raising the question of the hazards of the street already existing, and the matter of increased hazard. We want to make a tender, that there has been this automobile accident at the corner of

McCulloh and Mosher Street. It may be, to some extent, remote, but I still say it is relevant.

The COURT: No, I sustain that objection.

Mr. HOUSTON: All right. Step down.

NOTE: No cross examination.

(Testimony of the witness concluded).

Thereupon---

Rev. VOLLEY V. STOKES,

a witness of lawful age, produced on behalf of the Plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION:

By the BAILIFF:

Q State your name and address?

A Reverend Volley V. Stokes, 1526 McCulloh.

By Mr. HOUSTON:

Q Are you the Minister of a church in the area of McCulloh and Druid Hill Avenue?

A I am, sir.

Q What church is that?

A Trinity Baptist Church.

Q And the location?

A Druid Hill Avenue and McMechen Street.

Q How many members do you have?

A Around 500.

Q Will you state how long you have been there,
in that location?

Q I have been Pastor of that church 19 years now.

Q Are you familiar with traffic conditions there?

A I think so.

Q Will you state how the designation of Druid Hill
Avenue as a one-way express-way will affect your church?

Mr. O'DUNNE: I don't think there is anything
in here about affecting a church, in the Bill of Complaint.

Mr. HOUSTON: We have pointed out the fact
that it will affect the neighborhood, traffic conditions in
the neighborhood.

A It will affect our church in that it will give
our children--- we have one hundred and fifty who are in
our Sunday School--- the same hazard that it gives the chil-
dren in the public school, and it will also have its effect
upon special gatherings and funerals, and so on.

Q (By Mr. Houston): You live on McCulloh Street

A I have lived there 15 years.

Q Are you acquainted with the conditions of traffic on McCulloh Street?

A I am.

Q Were you living on McCulloh Street prior to the time that it was designated as a boulevard?

A Yes, sir.

Q Will you state what the effect, if any, has been on your family and property, as a result of traffic conditions since McCulloh Street was designated as a boulevard, as compared to the time before it was designated as a boulevard?

A Well, I can say very definitely that, if it were possible and within reason of my means, I would be very glad myself to get away from 1526 McCulloh Street.

Q For what reason?

A Because of the speeding of the traffic, and it is a greater hazard than it was before, and the noise that it gives, the fumes of the buses that stop just above, the length of two buses, from my door, and, then, the very un-

fortunate situation of having a light that shines in my bedroom at night.

Q Do trucks use it, large trucks?

A Yes, sir.

Q What, if any, experience have you had as a result of trucks using it?

A Well, we have just a degree more of noise, of course, than the other.

Q What is the condition late at night?

A Almost unbearable.

Q Because of what?

A Because of the heavy traffic; the trucks move more at night than in the day.

Q Is there anything happening to the house, physically?

A It is getting a big shaking. I don't know how soon we will have some trouble, but I know I am uneasy about it.

Q Are you able to feel that? Is that conscious?

A Yes, it is very definite.

Mr. HOUSTON: Your witness.

CROSS EXAMINATION:

By Mr. O'DUNNE:

Q Have there been any increased traffic fumes, as a result of the streets being made one-way?

A Any increased traffic accidents, do you mean?

Q Fumes from the gasoline?

A Oh, yes.

Q And vibration, I suppose, noises?

A Certainly.

Q How about dust? Is there any extra dust caused?

A Yes.

Q The traffic there now, is it worse at certain periods of the day than it is at other periods during the day?

A Well, it is faster, it moves faster, and it's a greater congestion on the downtown traffic on Druid Hill Avenue in the morning than it is in the evening.

Q What time is the congestion heaviest in the morning?

A I should say until, from around from early

morning until around ten o'clock, somewhere around ten or eleven o'clock.

Q Do you happen to know why it is heavier at that time of the morning?

A Do I know why?

Q Yes.

A I just know there is more traffic. I might surmise that it is due to rushing down to ^{the} business section of the city.

Q To go to work?

A Yes.

Q You say you have one hundred and fifty children in your Sunday school, and do they come there every Sunday?

A Every Sunday, and two or three evenings a week we have rehearsals, choir rehearsals, and other young people's meetings.

Q You said the making of these streets one-way, because of increased traffic, would have the same effect on your children going to Sunday school as it would have on children going to public school. Is that what you meant to say?

A It would constitute the same difficulty. It might not be at the same time but it would have the same difficulty, it would be the same difficulty, especially in the afternoons.

Q On Sundays you don't have anything like the traffic that you have during the week, do you?

A We don't have the commercial traffic. We have plenty of traffic, just the same.

Q But it is not nearly as heavy as it is during the week, is it? If it is, then, your surmise is wrong, that it is caused by people coming down to go to work?

A No, it wouldn't be the same amount of commercial traffic, but it is heavy on Sundays.

Q It is not as heavy as it is during the week?

A I don't suppose it would be, if you eliminate the cause of going to and from work.

Q You are there. You know that it isn't?

A I wouldn't say it isn't.

Q You have lived there for a long number of years?

A Yes, I have lived there for 15 years.

Q You have told Mr. Houston that you are in posi-

tion to observe the effect of increased traffic?

A I did.

Q So I conclude, if you observed the effect, that you observed that traffic has increased, have you not?

A I can only say what I have said before, that, eliminating the rush traffic of going to and from work, we don't have that same traffic, but we have traffic, folks coming to church and going other places, to the ball games, wherever they want to go, and they don't slow down because it is Sunday.

Q I know they don't slow down. You surmise the volume is not too much on Sunday but you can't say whether that is true or not?

A I can't say that it is any less.

Mr. O'DUNNE: Or any heavier.

Q (By the Court): You never counted it, did you, Reverend?

A No, I never counted it, Judge, Your Honor.

Q Is traffic on Druid Hill Avenue as heavy during the week-day as it is on Charles Street?

A Well, I wouldn't know about Charles Street. I

haven't lived there. I only cross there on business.

(Testimony of the witness concluded).

Thereupon---

Rev. B. L. MATTHEWS,

a witness of lawful age, produced on behalf of the Plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION:

By the BAILIFF:

Q State your name and address?

A Reverend Baxter L. Matthews, 340 Dolphin Street.

By Mr. HOUSTON:

Q Your occupation?

A Minister.

Q And are you a pastor of a church in this area of Druid Hill Avenue and McCulloh Street?

A Union Baptist Church, 1219 Druid Hill Avenue.

Q How long have you been there?

A More than eight years.

Q How many members do you have?

A Close to two thousand.

Q Will you state whether you are familiar with the traffic conditions on Druid Hill Avenue?

A Yes.

Q Will you state what in your opinion will be the effect on traffic conditions of designating Druid Hill Avenue as a one-way street?

Mr. O'DUNNE: Objected to.

The COURT: He isn't a traffic expert.

Mr. HOUSTON: No, sir.

Q (By Mr. Houston): What effect will the designation of Druid Hill Avenue as a one-way street have on the members and persons who come to your church?

Mr. O'DUNNE: Objected to.

The COURT: I don't see how he can tell, except certain things are obvious. In the first place, with a one-way street there will be certain traffic regulations there and people may be summoned to come in and answer traffic tickets. I think that is perfectly obvious to everybody. I don't think he can say any more about it.

Q (By Mr. Houston): Do you use your church except

on Sundays?

A Yes.

Q Will you give us an idea how much your church is used during the week, and for what purposes?

A Well, practically every night except Saturday.

Q And will you state as to how large the congregation of members, the maximum, would be at these weekly meetings?

A Between fifty and seventy-five.

Q And that would be every evening?

A Practically every evening the church is occupied and is in use.

Mr. HOUSTON: Your witness.

CROSS EXAMINATION:

By Mr. O'DUNNE:

Q What do they do there each night during the week?

A We have various organizations meeting. For instance Monday evening we have seven organizations there. We have more than one hundred persons present.

Q I don't guess they have bingo games there?

A No.

The COURT: Why do you think they don't have bingo games?

Mr. O'DUNNE: I thought apparently only my church does, your Honor. I was just trying to find out.

(Testimony of the witness concluded).

Thereupon---

R. BROOKEMAXWELL,

a witness of lawful age, produced on behalf of the Plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION:

By the BAILIFF:

Q State your name and address?

A R. Brooke Maxwell, 104 Edgevale Road

By Mr. HOUSTON:

Q You have an official position with the City of Baltimore?

A I do.

Q That is what?

A I am Director of the Department of Recreation and Parks.

Q Have you produced under sub-poena the regulations governing the prohibition of truck traffic through Druid Hill Park?

A Yes.

Q May we have that, sir?

A You will find it right there (indicating).

Mr. HOUSTON: I should like to introduce the Rules and Regulations of the Department of Recreation and Parks of the City of Baltimore, 1948, Rule 41.

NOTE: Book referred to, Rule 41, having been offered in evidence was filed and marked Plaintiff's Exhibit No. 25.

Mr. HOUSTON: I will read it.

Rule 41 of the Rules and Regulations of the Department of Recreation and Parks of the City of Baltimore, Maryland. The use of trucks is restricted and limited to automobiles classified as pleasure vehicles, to include station wagons, motorcycles, bicycles and passenger vehicles (limited to nine person capacity only.) Omnibuses adapted for more than nine-person capacity shall operate in any park only by permit. Vehicles constructed or adapted for or

engaged in the carrying of merchandise or the hauling of equipment and appliances, but not limited thereto, are prohibited from using any park, except when necessary to make deliveries in such parks or where necessary because of fire, accident, impending danger, public disaster, or other emergency.

Q (By Mr. Houston): How long have you been in your present position?

A I came with the City as Director of Parks in August of 1945. About a year later we had the Charter changed, and the title of the position was changed to that of Director of the Department of Recreation and Parks, and I have been in that for a period of about two and a half years.

Q Will you state whether this Rule 41 in substance
was in effect at the time that you came to the Department of Parks, the Department of Recreation?

A Yes. A rule similar to this has been in effect for many years; I don't know how many.

Mr. HOUSTON: That's all.

Mr. O'DUNNE: No questions.

(Testimony of the witness concluded).

The COURT: Will you leave this book here?

Mr. MAXWELL: I can give you a copy, Judge,
if you would like.

The COURT: Suppose I keep this copy.

Mr. HOUSTON: We rest.

TESTIMONY ON BEHALF OF THE DEFENDANTS.

* * * * *

Thereupon---

PAUL L. HOLLAND,

a witness of lawful age, produced on behalf of the Defendants, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION:

By the BAILIFF:

Q State your name and address?

A Paul L. Holland, 31st and St. Paul Street.

By Mr. O'DUNNE:

Q What is your position?

A Director of Public Works of the City of Baltimore.

Q How long have you been in that position?

A January 20th, 1948.

Q What do the duties of that office entail?

A The Director is charged with the responsibility for the operation, guiding the operation of eleven bureaus that are comprised in the Department of Public Works.

Q What did you do prior to that time?

A I was Chief Engineer of the Public Service Commission of Maryland for seventeen years.

Q As such could you tell, just roughly, what your duties consisted of?

A They consisted of handling the engineering work in utility regulation; in the promulgation and formulation to the Commission of safety rules for motor carriers, under the jurisdiction of the Commission, for trucks, buses, taxicabs, and so forth; similar duties in connection with the vehicles of the Baltimore Transit Company, and, during the course of that time I had occasion to serve as a member, and part of the time as chairman, of the Mayor's Traffic Committee, which was in effect from 1934 until 1942, I think, during which time we made, perhaps, the first recommendations

in regard to one-way streets in Baltimore that I know of.

Q What experience have you had with the planning of streets, as far as cities and municipalities are concerned?

A With what?

Q What other experience, in addition to your work with the Public Service Commission, have you had, with respect to the city planning of streets, with respect to traffic and traffic conditions?

A I am ex officio a member of the City Planning Commission, which is the City body charged primarily with the study of the use of the physical abilities of the City, as to one-way streets, two-way, and so forth, the design of streets, width, and so forth, all development of newly-built sections, and changes in the older parts of the City. That is a Charter provision.

Q Are you familiar with the procedure that is followed in Baltimore, with respect to the opening of new streets, or the redesignation of existing streets?

A I am.

Q Would you tell us what the steps are, any pro-

visions that ultimately are adopted relating to street facilities, the procedural steps that are taken?

A It is the function of the City Planning Commission to designate streets, in general locate and designate them as one-way or two-way arteries. However, other considerations enter into the picture, and, no later than yesterday afternoon there was a conference in my office, practically all afternoon in which the designation of additional one-way streets was discussed at length. That arose in connection with a meeting of what is known as the board of counsellors of the community and counsel on traffic. I happen to be a member of the Board of Counsellors, and, in connection with the proposed reroutings of the Baltimore Transit Company, we discussed at length additional one-way streets. Ordinarily, if the City Planning Commission contemplates a street, or a change of any kind in a street, other than that involved in a new real estate development, plans for which must be approved by the Planning Commission, that Commission consults with the various bureaus in the Department of Public Works, to see what physical changes in existing overhead or underground

facilities are necessary to regrade, relocate, widen, or alter in any way the existing street facilities.

Q Are you familiar generally with this Ordinance No. 169, approved in March of 1948, pursuant to which McCulloh Street and Druid Hill Avenue were designated as one-way streets?

A I am familiar by reference to reports in my office as to the events leading up to it. Of course, the Ordinance was passed during my tenure in office as Director, and had my approval.

Q Could you tell his Honor what the events were that led up to the passage of the Ordinance, so far as you know from records in your possession.

Mr. HOUSTON: I would like to see the record. I have no objection to his relating to us the events, but, as to the contents of the record, I would like to see it.

Q (By Mr. O'Dunne): I don't mean for you to give us the contents of any record.

The COURT: All you want Mr. Holland to give is the sequence of events that occurred leading up to the final passage of the Ordinance.

Mr. O'DUNNE: Yes.

Mr. HOUSTON: I have no objection to that.
in my file

A The only documents/having to do with this subject are in evidence in this case already, including the report to my predecessor, Mr. Nathan L. Smith, which was dated sometime in 1945. I did find, subsequent to the time Mr. Carter was on the stand, one additional letter which, some way or another, had been misplaced and was not in that file, having to do with that subject.

The COURT: Can you answer the question? The question is, Give us the sequence of actions that led up to the final ordinance which designated these two streets to be one-way streets?

The WITNESS: There was some discussion in the period during which I served on the Mayor's Traffic Committee.

The COURT: When was that?

The WITNESS: 1934 to 1942. No definite decisions were reached in regard to one-way streets, except in the case of some minor extensions, such as the extension to the eastward, or the one-way operation on Saratoga Street,

and, I think, perhaps, the extension on Lexington Street. Then, in 1945, a further study was made by the Department of Public Works, and the results thereof are embodied in the report of Mr. Smith which is in the record in this case.

The COURT: Was that in 1945?

The WITNESS: That was in 1945, Mr. Smith's report. From that time on there was discussion in the Department of Public Works, the Planning Commission, and in the Public Service Commission that they were all together at that time in regard to the complete conversion program of the Baltimore Transit Company. That was approved by ordinance of the City Council, and the conversion plan is in the record in this case. It was approved by the City Council sometime in May, 1946. It was signed by the Mayor, I believe, on May 16th, 1946.

From that time on there has been constant discussion of means of implementing that conversion plan. Those discussions are continuing up to the present time.

In 1946, in anticipation of the conversion of Druid Hill and McCulloh, which was a part of the so-called Smith Plan, the Department of Public Works had constructed

the dual road along the outskirts of Druid Hill, the southwestern limits of Druid Hill Park, to connect with those two streets. The additional letter to which I refer, do you want to put this in evidence? It is just an additional letter to the file, which Mr. Carter had found subsequently.

Q (By Mr. O'Dunne): There has been certain discussion of the correct designation for McCulloh Street and Druid Hill Avenue. It has sometimes been called a boulevard street, sometimes been called an express-way or free-way. What is the correct designation, from an engineering point of view, as called for in this Ordinance?

A A boulevard street is a street on which traffic has the right of way over traffic entering from either side. McCulloh Street at the present time is a boulevard street. A number of our two-way arteries are boulevard streets. An express-way is a street at grade, with grade crossing intersections, but upon which such intersections are limited to three or four or five blocks. It has limited access to a certain extent with grade crossings. A free-way is a street to which direct access is entirely eliminated,

except at the grade crossing points where traffic is led into the free-way along lanes that are specifically designed to enhance the safety and increase the speed and capacity of the street. There are no grade crossings on a free-way. Those are the three general definitions. The express-way is simply a part of the grid system. A free-way is an entirely different form.

Q Into which category will Druid Hill and McCulloh Street fall?

A They will be one-way boulevards, neither expressways nor free-ways. It's a one-way boulevard.

Q Does a one-way boulevard increase the velocity with which traffic moves?

A The velocity is dependent entirely upon the automobile and traffic signals. One-way operation or boulevard operation in itself does not increase or decrease average velocity.

Q Are you familiar with the proposed location of the traffic signals?

A I am not, since they are prepared by the Police Department, which department is charged with the handling

of traffic on public streets.

Q Do you happen to know whether the funds to perfect those signals have already been appropriated or not?

A I think they were appropriated in last year's budget. If not, they are in this year's budget. I am pretty sure they were in last year's budget.

Q There has been some suggestion that perhaps Druid Hill Avenue and McCulloh Street, before conversion, were not the best streets for the one-way Street. Will you tell us what, if any other streets were considered, and why McCulloh Street and Druid Hill Avenue were adopted, as opposed to any other choice?

A I can not say firsthand as to why they were adopted. I can say from my own experience why they should be adopted, and I can say, from my conversations with men in my own department, the Bureau of Highways, as to why they were adopted.

Mr. HOUSTON: I object to the conversations.

The COURT: You tell us why they were.

The WITNESS: From my own knowledge of the matter, I can say Druid Hill and McCulloh, from a physical

point of view, offer the most direct and most feasible connection of the highways along the western perimeter of Druid Hill Park to the downtown area, in the general line of direction in which traffic desires to move, much more direct and much more easily constructed than any other connecting links, as between downtown and the northwest, than would be any other two streets in that particular vicinity. One particular reason for picking those western limits along the Park was to prevent the destruction of the Park. The other plat which was presented, either one of them, would have to be a more circuitous route, or bisect the Park with thoroughfares, and it is not desirable to have thoroughfares bisecting the Park. So the dual lane from Park Circle down to anywhere where the dual lane comes into either the present Reisterstown Road or pending Reisterstown Road offers a direct route from there, without acquiring or utilizing or making unusable more than a few square feet of the Park. The south end of these two streets particularly lend themselves to interconnection with the grid system in the downtown area.

it

For instance, /is proposed to carry Druid Hill

across that vacant lot now used as a parking space at the western limit of Centre Street. Condemnation proceedings have been instituted, and it is proposed to buy that lot, or negotiations are under way to buy the whole lot. Condemnation, of course, only covers the portion needed for the street. That will then connect by gentle grades, the principal grade being something like about three feet, with Centre Street. It is proposed to make that one-way all the way from Druid Hill Park, the northern end of Druid Hill, along Druid Hill, across Howard to Centre and St. Paul Place.

On the northbound route it is proposed to make Monument Street from Cathedral, that is, the western end of the Gardens, Mount Vernon Place, one-way westbound to McCulloh Street at Eutaw, where a very easily and cheaply constructed connection can be made to McCulloh Street northbound.

No other two streets are so easily connected for this service as these two, and no other two streets could take care of the traffic which they are designed to handle.

The traffic survey made jointly by the City, State, and Federal Government several years ago indicates that traffic into the downtown area, the volume charts, in this quadrant is greater than any other similar quadrant in the City.

It is rather interesting to show the charts that indicate the volume of that traffic distributed into the downtown area. From the southeast we have a very small amount of traffic. I ask for the record--- is this in evidence (indicating)?

The COURT: I think it is.

The WITNESS: This is a report of Transportation Study, Baltimore, Metropolitan Area, Volume 1, which gives the results of this survey.

Mr. O'DUNNE: We offer it in evidence.

NOTE: Report referred to, having been offered in evidence, was filed and marked Defendants' Exhibit No. 6.

The WITNESS: That shows the traffic coming into the congested area from the southeast (indicating). That shows the traffic coming in from slightly north of west.

Q (By Mr. O'Dunne): May I make a suggestion? Instead of referring to it as "that", so the record will identify it, what is the first picture?

A This is Plate 10 of Volume 1 of the Report of the Transportation Survey.

Q That is the first one you referred to?

A That is the first one I referred to.

Q And the one you have just referred to?

A Is Plate 11 of the same survey, showing traffic coming in from the northwest. Plate 12 is the continuance of traffic coming in from the northwest. The sum of the traffic---

The COURT: While you are doing that, give us an idea of the traffic coming in from the north, so we will have something to go by?

The WITNESS: Traffic from the north, which is shown on Plate 13, totals 28,591 total trips.

The COURT: May I see that plate?

The WITNESS (indicating): It will be noted that the sum total of that coming in from the northwest and here (indicating) is equal to traffic coming in from

the north. As you swing either ^{way}/from north and northwest, traffic piles up very very rapidly.

The COURT: What would you say as to the traf-
fic coming in from the northwest, the second ⁱⁿ/intensity coming into the City, or the third; it is not the first because you say the north is the first, how would it relate?

The WITNESS: If you take from Edmondson Avenue, or a little north, the traffic on Edmondson Avenue, around the northwest quadrant, it is even better than a similar length of the quadrant for the north, even. In other words, the area shown on Plates 11 and 12, coming in from the northwest represents 37,000 trips, coming in from the north it is 28,591. The northwest quadrant is even greater than the north quadrant. A further reference to the diagram shown on plates 11 and 12 indicates that this traffic is distributed for points almost as far as the Falls-
way, but that Centre Street, which will be one-way east as far as St. Paul Street, will take care of the last bit of that traffic; in other words, we couldn't pick any artery which could so conveniently serve to distribute that traffic as Centre Street, southbound and eastbound.

The COURT: I am a little curious to know why you stopped at St. Paul Street as one-way on Centre Street, when Calvert Street is a one-way street?

The WITNESS: If you will notice, that is the end of the traffic coming from that direction. No traffic comes between St. Paul Street and there (indicating), practically none. It shows perfectly. That is the tip end of it down here (indicating). Down here we come into these other streets and turn around. Then, too, we didn't want to carry--- of course, the upper and lower level, St. Paul Place, St. Paul Street, since it is the most convenient southbound lane, will take care of all the traffic that comes in from that direction. It will not be necessary to terminate the traffic movement into St. Paul, from the location of the railroad station and the new Sunpaper.

The COURT: I overlooked the proposition that St. Paul is one-way there.

The WITNESS: Yes.

Q (By Mr. O'Dunne): As far as the effect on Druid Hill Avenue and McCulloh Street, with respect to handling traffic that they are designed to handle by the

new connection, how would Eutaw Street and Madison compare as substitutes?

A Not comparable at all. They wouldn't serve the purpose as directly, nor as conveniently, nor as economically, as far as money outlay is concerned.

Q Will you explain that to the Court?

A We would have to build a circuitous line through the Park. Eutaw goes into the Park at the present time along Park Drive which is badly congested. It would be a circuitous route, and not in line with the traffic movement, the doctrine of distinction, "lines of desire", as we call it. At the south end no other two streets serve so conveniently to tie in with the congested downtown area and deliver traffic where it wants to go.

Q No such two streets as what?

A As Druid Hill and McCulloh. That is the best we know of, both on the point of the direction of traffic, the lines of desire, and the physical means of connecting them.

Q As I understand it, Madison Avenue at one time was considered as a substitute for either Druid Hill Avenue or McCulloh Street?

A It was one of the streets considered, but I understand there was objection from the Transit Company. But that is hearsay. From our personal point of view I can state that it is not as desirable, by any means.

Q Would your reasons from a physical point of view be the same as you have already given to the Court, namely, because of the relationship of Madison Avenue to Eutaw Street?

A Regardless of the Transit Company's desires, or their plan for eliminating or adding to the traffic, it would still be the fact that Druid Hill Avenue and McCulloh offer the two best routes because they are direct.

Q Before the passage of this Ordinance are you in a position to tell us what the nature of the traffic was on Druid Hill Avenue and McCulloh Street? I might explain that by saying that the Bill of Complaint says that before the passage of the Ordinance the vehicular traffic on McCulloh Street, and more particularly on Druid Hill Avenue was the local traffic of persons resident in or visiting the neighborhood?

A I have no personal knowledge of that.

Q The Bill of Complaint alleges that such Commissioner was secretly put to work in the construction of these streets or the adoption of them as one-way. Do you know anything about any commissioner being at work secretly?

A I know it was not done secretly, because it was publicized in the paper, has been for the last five years, several years, at least.

Q As far as the Department of Public Works was concerned, was there anything absolutely irrevocable about the decision to make these streets one-way, if hearings should have revealed the fact that it wouldn't be proper to so make them?

A No decision of the Department is irrevocable. We can always change it. It might be expensive to make it but it can be changed.

Mr. O'DUNNE: All right, that's all.

CROSS EXAMINATION:

By Mr. HOUSTON:

Q Mr. Holland, did you come to Baltimore to take an official position with the City?

A No, with the State of Maryland.

Q And that was in what year?

A 1931.

Q Prior to that what was your first experience in relation to traffic conditions and streets?

A I was in the office, staff engineer, of the firm of Mace and Mace in Charlotte, North Carolina, consulting engineers, who constructed all kinds of things, from streets to hydroelectric plants.

Q And you came from there to the State, and how long did you stay with the State of Maryland?

A 17 years.

Q And were you with the State of Maryland when you were Chief Engineer of the Public Service Commission?

A That is a State agency.

Q And how long were you Chief Engineer of the Public Service Commission?

A 17 years.

Q As Chief Engineer of the Public Service Commission, you were, of course, familiar with this report to the Commission on City Plan of the City of Baltimore on Present and Proposed Facilities?

A No, the Public Service Commission had nothing to do whatsoever with that, and the fact is I never read a copy or never saw a copy of it until a few weeks ago. My duties with the State had to do with public utilities, transportation and otherwise, the operation, safety rules, schedules, rates and valuations and so forth of public utilities. They had nothing to do with utilities owned, or very little to do with utilities owned by municipalities, for the simple reason that property owned by the City is exempted from public utility regulation, and the utility serving the City of Baltimore is a private-owned utility.

Q You did have something to do with the Baltimore Transit Company, did you not?

A Quite a bit, yes.

Q And your contact with the Baltimore Transit Company required you to consider the traffic use of Baltimore City streets, did it not?

A Very definitely.

Q Were you aware of the fact that in 1942 that report to the Commission on City Plan by the consulting engineers made the observation against the designation of

McCulloh Street as a through highway on the ground that it traversed a solidly built negro section, with two large public schools facing it?

A No, I am not yet familiar with that; I never read it.

Q Doesn't the fact that there are large public schools on a highway, does that constitute a material fact to be taken into consideration in the matter of the designation of the street as either a boulevard, express-way, through street, or what not?

A Does the existence of schools?

Q Yes. Is the existence of schools facing on a street that near a factor to be taken into consideration in determining the character of the traffic use of the street?

A The traffic on the street, of course, is determined by the nature of the territory through which the street traverses.

The COURT: That isn't his question. What he wants to know is this: He wants to know whether, in effecting two through highways like we have under consideration, how much weight do you give before you designate

them, to the fact that they are contiguous to schools. Isn't that what you want?

Mr. HOUSTON: That is right.

A There was very little weight given to the mere fact that they are contiguous to schools, because, when they are designated one-way streets, they are usually protected by traffic lights, and the street becomes a safer street in many respects than it is before. So the mere fact that it traverses a school has nothing to do with it at all.

Q (By Mr. Houston): Your conclusion about the matter of safer streets: You are acquainted with the accident evidence that has been introduced here as to St. Paul Street?

A I am.

Q That doesn't bear out your conclusion?

A Yes, sir.

Q It does?

A I think it does.

Q You do not give consideration to the question of what injury you will do to the Park in the matter of design-

nating your streets, do you?

A We give consideration to all damages, whatever they may be, and, in connection with a proposition like this, it is necessary to pick those streets that will cause the least damage and the greatest gain.

Q By least damage you mean, at least as one factor, the damage to the Parkway passage, certainly?

A There would be no purpose in utilizing a park which is of general benefit to the public, if some other route could be obtained, just as well and, perhaps, better.

Q Without consideration of the safety or convenience or property values of the neighborhood through which the route passes? Is that correct?

A No, that is not correct at all.

Q You are familiar with the Smith report, you say, of 1945. That was an adoption, was it not, of the report for reconversion of the Baltimore Transit Company?

A No, the Baltimore Transit Company plan, modified very greatly from its original plan, was not adopted until 1946. There are certain things in the Smith report that were adopted by the Transit Company, and certain things in

the Transit Company original discussions which appear to have been included in the Smith report.

Q If you will just answer my question, was to whether the Smith report was not an adoption of the plan for reconversion of vehicular traffic that was made by the Baltimore Transit Company, and in existence at the time of the Smith report?

A No, I don't know that, because you can see there are quite a number of differences.

Q Will you point out wherein they are different?

A The Smith report covers only a small part of the conversion plan of the Baltimore Transit Company, a very small part of it.

Q Well, then, state whether the Smith report as to that portion of the Baltimore Transit Company report was not an adoption of that particular portion of the BTC report?

A I would have to take each individual item, and take it item by item, to answer that question. It was, certainly, so far as I know, no blanket adoption of anybody's report.

Q But you don't want to go on record as saying that the two reports did not actually coincide as to the or as to certain particular things in the Smith report?

A In certain things they coincided exactly.

Q You are familiar, also, with Order 42685, in 1946, are you not, the Order of the Public Service Commission, passed October 9th, 1946?

A I don't remember it by number, but I am familiar with that. I was Chief Engineer of the Commission at the time that was adopted.

Q Will you look on page 4, and tell us whether that order didn't contemplate sending the traffic, particularly the BTC route, taking it off Druid Hill Avenue and sending it down another street?

Mr. O'DUNNE: Objected to. The document speaks for itself.

(Objection overruled; exception noted).

A The Order tells the Baltimore Transit Company to reroute its electric railway and trackless trolley service in the following manner: The Number 5 Line, Pimlico-Patterson Park Line - following the present route from the

termini at Belvedere Car House and Manhattan Loop by Park Heights Avenue and Pennsylvania Avenue to Fulton Avenue, then by a new route continuing on Pennsylvania Avenue to North Avenue, to Madison Avenue, to Eutaw Street, to Lombard Street, to South Street, to Pratt Street, to Calvert Street, to Lombard Street, returning over same route.

Q That is the line which was on Druid Hill Avenue, is it not?

A Yes; I think part of the distance on Druid Hill.

Q And on Druid Hill in this very territory that we are talking about, over McMechen and Mosher, and the other streets?

A That's true.

Q That line served this northwest territory that you have talked about as having such a heavy traffic flow, is that correct?

A That's true.

Q So that in 1946 the Public Service Commission, of which you were Chief Engineer, considering the desirability of Druid Hill Avenue, and also of Madison Avenue

and Pennsylvania Avenue, passed that order, taking the traffic off Druid Hill, on to these other streets in this area?

A That's true. It is necessary to get two-way street car operation off of a street before you can make it one-way. We did it up on Maryland Avenue.

The COURT: He says that because he realizes how difficult it has been over a period of two years to get it off Maryland Avenue.

Q (By Mr. Houston): The point there in making a one-way movement, your Commission and you as Chief Engineer moved it off Druid Hill and placed it, one on Pennsylvania and the other on Madison?

A That's correct.

Q When was the Auchentoroly Terrace cut-off finished?

A A year ago this month, a year ago next month, I believe it was.

Q Is it not true that you have stated that the Auchentoroly Terrace cut-off is practical only in connection with the designation of McCulloh Street and Druid Hill Avenue as one-way streets?

A If it had not been contemplated, it wouldn't

have been built.

Q And at the present time it has been boarded off and not used, because Druid Hill Avenue and McCulloh Streets are not used as one-way streets?

A Because of this litigation right here, exactly.

Q And, also, the Auchentoroly Terrace cut-off was made as a means of doing minimum damage to Druid Hill Park, was it not?

A That is one of the factors. If you will look at the map you will find this direct route not only minimizes the damage to the Park but furnishes the most direct route from the Carlin's Park area downtown.

Q So the final decision, then, necessarily, was to make Druid Hill Avenue and McCulloh Street one-way streets when the decision was made to build the Auchentoroly Terrace cut-off, at a cost to the City of \$400,000.00.

A No, you have the cart before the horse. When the decision was made to make Druid Hill Avenue and McCulloh Street one-way streets, then the decision was made and construction actually started on the connecting link to take that over to a connection at Carlin's Circle.

Q When was the decision made to make Druid Hill Avenue and McCulloh Streets one-way streets, if it was made before the construction of ^{the} Auchentoroly Terrace cut-off was begun?

A I don't know the exact date, but it stemmed from the Smith report in 1945, I presume. It was recommended at that time.

Q Does your department install traffic lights?

A No, sir, the Police Department.

Q And your Department has received no special instructions concerning Druid Hill Avenue and McCulloh Street since January 1st, 1948?

A What do you mean "no instructions"?

Q What instructions has your Department received ^{personal} to your/knowledge, concerning Druid Hill Avenue and McCulloh Street, since January 1st, 1948?

A We received no instructions. I don't know where we would get such instructions.

Q The answer is no?

A Very definitely, unless you assume that the passage of that Ordinance, which was in 1948, is an instruc-

tion. We propose to resurface the streets, improve them very materially, in accordance with the plan which is approved by the City Council. That might be construed to be an instruction.

Q You have testified here as to the history of this matter, and I will ask whether your deposition was taken in this case on or about October 8th, 1948?

A It was.

Q I will ask you if this question, if you recall this question being put to you: "What is the first time that the proposition about making McCullch Street and Druid Hill Avenue expressways first came to your special attention? A. I can't give you the exact date. It was sometime after I took office in January that there was discussion in my office about the two arteries." I can't give you the exact date. Do you recall that answer?

A I do.

Q So that at the present time the only thing you can testify to personally is the fact that after taking office on the 20th of January, 1948, there was some discussion in your office about making Druid Hill Avenue and Mc-

lloh Street one-way streets, that is the first time it came to your personal attention?

The COURT: You said something about 1946?

(Question read by the Reporter).

A The discussion was not about making them one-way streets. They had at that time been designated by the Council as one-way streets, and our problem was to hook them up physically to the east as one-way streets.

Q (By Mr. Houston): That is the first time the matter came to your attention?

A That is the first time personally. It was a matter under discussion when I took office. At that time the marginal road in Druid Hill was under construction, and it was finished a few weeks after I took office, and we immediately proceeded to begin negotiations for acquiring a vacant parking lot at the south end of Druid Hill, in order to connect up and make them useful.

Q At the time you were Chief Engineer of the Public Service Commission, were you acquainted with the number of schools in the area from North Avenue down to Biddle Street?

A No, sir.

Only in a general way. I rode the lines quite often but had no detail on it.

Q Are you acquainted with the fact that the area through which the traffic will pass on this one-way thoroughfare, those one-way streets, is a very heavily, densely populated area?

A I have heard that testimony and have observed it personally.

Q Did you give that any consideration in the question of determining the desirability of the traffic movement on those streets?

A Did I give it any?

Q Yes.

A The matter was decided before I came into the picture at all, but, whether it had been decided or not, that would not have been a controlling factor. As I said, it's a question of moving people from where they are to where they want to go, and we must move them in the most convenient method, ways, at the lowest or the least mechanical cost, taking all things into consideration, and they must be moved safely.

The COURT: Isn't it a fact that they tend to go in the most direct way, anyhow?

The WITNESS: They go in the most direct way.

The COURT: The question is whether you provide them freer access?

The WITNESS: At the present time that is true. In that particular area the traffic waves first one way and then the other down there, but it comes from the northwest into the central district, a tremendous lot of it. Their attempt is to provide a safe and economical and speedy means of getting to their destination, over the most direct available route.

Q (By Mr. Houston): Would you say that the heavy movement of one-way traffic in a residential area on a fairly narrow street would have any effect upon residential values, and the desirability of that area as a residential neighborhood?

(Objected to).

A Increased traffic is always detrimental to a certain extent to residential properties; there is no question about that. The problem is how to minimize the damage

and at the same time take care of those problems which must be solved. We can not surround the downtown area with a Chinese Wall. We have got to get the people in. At the present time all of that traffic, a large part of that traffic coming from the northwest is proceeding over Mount Royal and coming down Calvert and going back to St. Paul, as a result of which the traffic on those two streets is tremendously congested, and getting worse every day.

The COURT: We have had a lot of talk here about the fact tending to show that the, or assuming that one-way streets are more dangerous, from a pedestrian standpoint, than two-way streets: Have you any experience on that?

The WITNESS: Very much. If they are properly lighted, traffic-lighted, a one-way street is much less hazardous than a two-way street, for one-way traffic, for pedestrian traffic. When you have traffic moving in opposite directions, just as at a grade crossing with a vehicle, you would be watching one side and disregarding traffic coming in the other direction; the same with pedestrians. If you have occasion to watch traffic on your right only, and

the intersections are properly marked and properly controlled, it is much safer, vastly safer; you haven't anything like the number of turning movements with one-way traffic. When you have traffic on your right only, you have that traffic only to watch, no other turning movements to confuse you, or crossing thoroughfares.

The COURT: I gather from what has been said in the course of this case that the making of these two streets as one-way streets is part of an overall plan for the entire city, is that correct?

The WITNESS: That is true. It will be necessary to make many others one-way, in order to handle traffic. We have to make, to construct free-ways or throughways into the downtown section, and do that for many years to come. It's a question of utilizing our facilities in the most economical and the safest manner. We have to do it.

The meeting in my office yesterday was considering several other one-way arteries.

The COURT: You mentioned about Mount Royal traffic a few minutes ago. It is true that traffic is very heavy at the present time on Mount Royal Avenue from the

northwestern part of the city, that is true? That is, the suburbs?

A The traffic which we hope to handle on Druid Hill and McCulloh is coming down the dual highway and following through Park Drive to Mount Royal, and coming down to North Avenue, some coming down Cathedral Street, some Maryland, but a large part of it going over to St. Paul Street, which is the easternmost of the one-way southbound streets. That, in turn, brings about crossings at Charles and Mount Royal to St. Paul and Mount Royal.

The COURT: I assume your expectation and hope is that the making of these two streets into one-way highways will drain off some of that traffic?

The WITNESS: Of course, Charles and Cathedral and Maryland will drain off some of the flood traffic coming in directly from where it originates to where it wants to go.

Q (By Mr. Houston): In connection with your statement that one-way traffic makes for safer conditions, how do you explain this traffic accident list on St. Paul Street?

A This is the total number of accidents, not the

total accidents for a thousand vehicles involved. You must take into consideration that you have got nearly double the amount of traffic on those streets. This started thirty-one, the total number of accidents then was ninety. Then there were one hundred and nine. That has no connection at all with the amount of traffic you have got there.

Q But, as far as residents are concerned, the number actually increases, doesn't it?

A No, so far as residents are concerned, I don't know that these are all residents involved in these accidents.

Q Tell us about this overall plan. Does that exist now?

A Not in its entirety. The City Planning Commission is engaged now, at the present time, in drafting an overall highway program. It is partly complete but not in final form by any means. The Transit Company is proceeding, and I just dictated a letter a few minutes ago to the Transit Company, urging them to give me their latest report on their conversion program, which must tie in with our City action, and we at the same time are planning

additional streets, additional paving, cut-offs, and various and sundry things to expedite the flow of traffic from where it is to where it wants to go. There is nothing fixed about it yet. It is in the period of preparation, but steps, and numerous steps are being taken to complete the program. Of course, it is never complete, and the Planning Commission is charged with keeping it up to date, from year to year.

Q Tell us in what stage it was in January, 1948?

A I can not answer that question. I couldn't tell you the percentage of completion at all. At that time, in connection with one-way streets, we had two east and west streets, Mulberry and Franklin; we had at that time two north and south streets, Calvert and St. Paul, with two additional north and south Charles and Cathedral under consideration. We had the Druid Hill Avenue and McCullon under consideration. We have the Orleans-Jefferson under consideration, going out east. We have under consideration and plans made for many arterial streets in the city, bring them into the outlying sections, and sometimes all the way down to the constriction area.

Q Talking about Druid Hill Avenue and McCulloh Street, at that time the Auchentoroly Terrace cutoff had already been completed?

A It was completed about a year ago.

Q So you didn't have Druid Hill Avenue and McCulloh Street under consideration, if you had already decided on it, by virtue of the fact that you had to decide on it before?

A It had been decided upon heretofore by the City Council at that time.

Q Before the Auchentoroly Terrace cutoff was completed?

A No, it wasn't approved until the Ordinance was approved, I think in May sometime.

Q I am talking about the decision--- I am not talking about the Ordinance--- I am talking about the decision of the City officials to make Druid Hill Avenue and McCulloh Street one-way streets: That was made before they permitted the City to build the Auchentoroly Terrace cutoff?

A Certainly. There wouldn't be any purpose in building the cutoff, if there had been some place to hook

them up to.

Q How long did it take to build the Auchentoroly Terrace cutoff?

A About four or five months.

Q So you would say the Auchentoroly Terrace cutoff was completed a year ago, which was January, 1948; then, the decision had to be made sometime not later than mid-summer, 1947?

A It was made prior to that time, definitely.

(Testimony of the witness concluded).

Mr. O'DUNNE: That's all.

The COURT: Are you through?

Mr. HOUSTON: Yes, sir.

NOTE: Testimony closed on both sides.

NOTE: Thereupon, at twelve o'clock noon a recess was taken until 1.00 o'clock.

AFTER RECESS (1.00 p. m.)

(Argument followed.

NOTE: Held sub curia.

FILED JUL 27 1949

IN THE
Court of Appeals of Maryland

OCTOBER TERM, 1949

No. 9

R. GARLAND CHISSELL et al,
Appellants,

vs.

THE MAYOR AND CITY COUNCIL OF
BALTIMORE CITY,
Appellees.

APPEAL FROM THE CIRCUIT COURT No. 2 OF BALTIMORE CITY
(MASON, J.)

JOINT APPENDIX

CHARLES H. HOUSTON,
DONALD G. MURRAY,
Solicitors for Appellants.

THOMAS N. BIDDISON,
HAMILTON O'DUNNE,
Solicitors for Appellees.



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JOINT APPENDIX

BILL OF COMPLAINT

The Bill of Complaint of your Complainants, R. Garland Chissell and Augusta Chissell, his wife; William R. Boykin, Sr. and Willie Mae Boykins, his wife; Raymond A. C. Young and Helen B. Young, his wife; Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife; Thomas J. Smith and Maseolia J. Smith, his wife; George Mercer Smith and Harriet S. Smith, his wife; Thomas H. Winkey, Sr. and Alease H. Winkey, his wife; Thomas H. Winkey, Jr.; a minor by his next friend and parent, Thomas H. Winkey, Sr., by their Solicitors Donald G. Murray and Charles H. Houston, respectfully represent unto your Honor.

1. That each of the adult Complainants is a citizen and resident of the United States of America and the State of Maryland, and as such entitled to all the rights guaranteed them by the Constitution and the laws of the United State, particularly the Fourteenth Amendment and the Federal Civil Rights Law 8 U.S.C.A. Sections 41 and 43; that each of the adult Complainants is a resident and taxpayer of Baltimore City, living on Druid Hill Avenue or McCulloh Street where they have made their homes since the date of the acquisition of their properties, photostatic copies of the deeds by which each of the Complainants acquired their title, or the receipted tax bills covering the same being attached herewith and prayed to be considered herewith designated as Complainants' Exhibits #1 to 7, inclusive; that some of the adult Complainants are parents of the individual minor Complainants who are under their care and protection as part of their respective households. All the Complainants sue in their own rights and as representatives of a class of citizens, residents, and taxpayers, and children living on McCulloh Street and Druid Hill Avenue. This class is too large for all its members to be brought individually before this Court but their interests are fairly and adequately represented herein.

2. That the Respondents constitute the Mayor and City Council of the City of Baltimore, a municipal corporation, and have all the rights, duties and obligations of the Mayor and City Council of Baltimore City by virtue of the provisions of the City Charter approved by the voters of Baltimore City on November 6, 1946 and by its terms effective May 20, 1947, and as such have supervision, control and management of the streets of Baltimore City and the Collection of Taxes of Baltimore City.

3. That Druid Hill Avenue and McCulloh Street since years long past have been developed into a highly desirable residential area containing approximately one thousand (1,000) homes of substantial character; that

both McCulloh Street and Druid Hill Avenue have been zoned, in the blocks where Complainants' properties are located, residential use districts since years long past; that such few businesses as are on either or both of the streets are predominantly local corner store consumer businesses, such as grocery, drug, restaurant, confectionary, etc., that prior to the passage of Ordinance #169 approved March 18, 1948 the vehicular traffic on McCulloh Street and more particularly Druid Hill Avenue, was local traffic of persons resident in or visiting the neighborhood and of moderate or below moderate volume; that the adult resident pedestrians, and the minor or child resident pedestrians prior to the passage of the said Ordinance #169, were comparatively safe in using said streets and intersections due to the fact that the vehicular traffic on the said streets was of moderate or below moderate volume.

4. That on the said streets the population density is far above the average population density of the remainder of Baltimore City; that there is no adequate playground and recreational space on or near these two streets for the children in this area which forces the children residing in this area to play on the sidewalks and in the streets both on Druid Hill Avenue and McCulloh Street; further that there are three Negro schools with a total enrollment of approximately two thousand, two hundred (2,200) children located on Druid Hill Avenue and Lafayette Avenue, Druid Hill Avenue near Biddle Street, and McCulloh Street and Lafayette Avenue; there are six (6) more Negro schools within one (1) or two (2) blocks of McCulloh Street or Druid Hill Avenue with a total enrollment of approximately one thousand, nine hundred children (1,900) located at Division Street near Lanvale Street, Preston Street near Druid Hill Avenue, Pennsylvania Avenue and Dolphin Street, Pennsylvania Avenue and Robert Street, Biddle Street near Pennsylvania Avenue, and Francis Street near Pennsylvania Avenue. That hundreds of Negro school children of immature age and discretion are forced

to cross and recross Druid Hill Avenue and McCulloh Street every school day to get to and from said nine (9) schools, and for other purposes. That further, all the Negro school children living in the northwest section of Baltimore City east of McCulloh Street and Druid Hill Avenue are forced to cross these streets and intersections because there are no schools for Negro children in this communal area east of McCulloh Street.

5. That the minor Complainants are pupils of the public schools in this area resident on McCulloh Street and have to cross one or both the said streets to attend school.

<i>Name</i>	<i>Residence</i>	<i>School</i>	<i>Crosses to Attend School</i>
Thomas H. Winkey, Jr.	2567 McCulloh St.	P. S. 120	Druid Hill Ave. & McCulloh St.
Nancy Winkey	2567 McCulloh St.	P. S. 120	Druid Hill Ave. & McCulloh St.

6. That by said Ordinance #169, approved March 18, 1948, over the vehement protest of Complainants and other residents and taxpayers living on Druid Hill Avenue and McCulloh Street, the Respondents designated Druid Hill Avenue and McCulloh Street one-way streets for through truck, automobile and bus travel from the outlying sections of Baltimore City to the downtown section of Baltimore City; that the effect of such designation, has already been to increase the traffic on both streets to the extent that it has become hazardous and dangerous for the minor Complainants to cross the streets as before; that the traffic load on the said streets will progressively increase until traffic becomes a continuous and ever present hazard not only to minors but also to adults; and your Complainants specifically point out that the peak of the morning traffic load comes during the very time that the minor Complainants and other children are forced to cross the said streets to get to their respective schools.

7. That the effect of the said Ordinance will be to change the character of the traffic from local traffic to high speed through traffic, further endangering the safety of the residents of the said streets; that upon abandonment of fixed rail traffic as provided by the ordinance, busses are proposed to travel on Druid Hill Avenue which still further increases the noise, the noxious fumes and foul odors in the air from the volume of traffic creating hazards to the health of the residents and Complainants and depriving the residents and Complainants of their rights to peacefully and quietly enjoy their respective homes.

8. That the aforesaid conditions create a public nuisance specially injuring the Complainants and the class they represent; that the Respondents acted in the premises arbitrarily and capriciously and with utter disregard for the health, welfare, comfort, and safety of the Complainants and the class they represent; and the Respondents by so acting denied your Complainants and the class they represent the equal protection of the law guaranteed by the Fourteenth Amendment of the Constitution of the United States.

9. That the Respondents on or about October 1, 1947 caused the tax assessments on some of the adult Complainants' properties to be increased, said increase being predicated on the use and value of said properties as residences and for residential purposes exclusively; that under the law, the time for appealing from said increase assessment has expired and they are final and binding.

<i>Name</i>	<i>Property</i>	<i>Old Date</i>	<i>New Date</i>
Clarence M. Mitchell, Jr.	1324 Druid Hill Ave.	\$3780—1947	\$5080—1948

10. That when the Respondents caused the tax assessments to be increased, they had already decided to change Druid Hill Avenue and McCulloh Street to one-way arterial thoroughfares and had secretly put city machinery to work to that end; and they further well knew that the effect of making these streets one-way arterial

thoroughfares for through traffic would be to decrease materially the value of the Complainants' properties as residences and for residential purposes. Notwithstanding, in order to lull the Complainants into inaction against said increase in tax assessment, and to deprive and conceal from them the fact that they had already decided on action which would decrease substantially the value of the Complainants' properties for residential purposes, the Respondents did withhold public action on making said streets one-way arterial thoroughfares, and did increase said assessments for residential purposes until after the statutory time for appealing from the said increase in assessments had expired and only then did the Respondents officially designate said streets as one-way arterial thoroughfares; thereby fraudulently representing to the Complainants that they had no present plans to destroy the value of the Complainants' property and lulling the Complainants into quiescence. The Complainants say that if they had known Druid Hill Avenue and McCulloh Street had already been programmed as one-way arterial thoroughfares, they would have protested the tax increase, but being ignorant of that fact and relying on the good faith of the Respondents not to destroy the value of their properties as residences or for residential purposes, they took no action as provided by law to resist the said tax increase. They are without remedy against said increase except by injunctive relief in this Court, and say that the increase of said assessments leave the Complainants completely without remedy. The increase of said assessments under these circumstances constitutes depriving the Complainants of their property without due process of law as guaranteed them by the Fourteenth Amendment of the Constitution of the United States of America.

11. That your Complainants are advised that individually and as specially interested citizens and taxpayers of Baltimore City and on behalf of other citizens and taxpayers having similar rights, duties and obligations, they

are entitled to restrain the Respondents from enforcing this ordinance.

12. That because of the said action or threatened action, your Complainants allege that they are or will be irreparably injured and damaged and that they have no adequate remedy by law, and that unless this Honorable Court intervenes by way of injunction, your Complainants and others will be deprived of their lawful rights to enjoy the peace and quiet of their respective homes.

TO THE END, THEREFORE THAT:

1. That your Honorable Court issue a preliminary injunction restraining the Respondents from enforcing Ordinance #169 making the said streets one-way arterial thoroughfares to the great and irreparable damage and harm to your Complainants until the hearing of the case and further order of this Court upon this petitioner giving such bond and complying with such other requirements as to the Court shall seem fit.

2. Or that if this Honorable Court shall see it unfit to grant relief prayed for by your Complainants in Paragraph One of the prayers immediately above, your Complainants respectfully pray that this Court set the date for a full hearing in this case as expeditiously as possible, so that the Complainants may be fully and finally heard.

3. That this Honorable Court issue a permanent injunction restraining the Respondents from enforcing Ordinance #169 making the said streets one-way arterial thoroughfares to the great detriment and irreparable damage and harm to your Complainants.

4. That your Honorable Court declare this ordinance illegal and void and all acts, measures and things done or to be done thereunder or in consequence thereof be restrained or enjoined forever.

5. That your Honorable Court issue a permanent injunction restraining the Respondents from collecting any

taxes based upon increased assessments in 1947 upon any of the residential properties located on McCulloh Street and Druid Hill Avenue because of the fraudulent manner in which such increased assessments were made by the Respondents.

MAY IT PLEASE YOUR HONOR to grant unto your Complainants the Writ of Subpoena directed to the Respondents in their official capacities and comprising the Mayor and City Council of Baltimore City, directing them and each of them to be and appear in this Honorable Court on some certain date to be named therein to answer and abide by such order or orders that may be passed therein.

And to grant such other and further relief as the nature of the Complainants' case may require.

AND, AS IN DUTY BOUND, ETC.

DONALD G. MURRAY,
CHARLES H. HOUSTON,
Solicitors for Complainants.

(Affidavit attached.)

DEMURRER

To the Honorable, the Judge of said Court:

The Mayor and City Council of Baltimore, a municipal corporation, by Thomas N. Biddison, City Solicitor and Hamilton O'Dunne, Assistant City Solicitor, demurs to the Bill of Complaint in the above entitled case and for reasons therefor states:

1. The Bill of Complaint states no grounds sufficient to justify the relief which it seeks.
2. The relief sought by the said Bill of Complaint seeks to enjoin action on the part of the City, the exercise

of which action is a matter to be determined by the sound discretion of the legislative body of the Mayor and City Council of Baltimore.

3. The Bill of Complaint seeks to have an Ordinance of the Mayor and City Council of Baltimore declared null and void, and the Bill shows on its face that is within the power of the Mayor and City Council of Baltimore to legislate on the subject matter of the said Ordinance.

4. And for other good and sufficient reasons to be shown at the hearing.

THOMAS N. BIDDISON,

HAMILTON O'DUNNE,

Attorneys for Respondents.

(Affidavit)

ORDER

THE ABOVE ENTITLED CAUSE, having been heard before me on oral argument on the Demurrer on the 11th day of September, 1948, it is, this 21st day of September, 1948, by the Circuit Court No. 2 of Baltimore City, and by the Authority of this Court, Adjudged, Ordered and Decreed, that the Demurrer be hereby overruled and leave given to Complainants to amend their Bill of Complaint.

ROBERT FRANCE,

Judge.

AMENDED BILL OF COMPLAINT

The Amended Bill of Complaint of your Complainants, R. Garland Chissell and Augusta Chissell, his wife; William R. Boykin, Sr. and Willie Mae Boykin, his wife; Raymond A. C. Young and Helen B. Young, his wife; Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife; Thomas J. Smith and Maseolia J. Smith, his

wife; George Mercer Smith and Harriet S. Smith, his wife; Thomas H. Winkey, Sr. and Alease H. Winkey, his wife; Thomas H. Winkey, Jr; a minor by his next friend and parent, Thomas H. Winkey, Sr., and Nancy Winkey; a minor by her next friend and parent, Thomas H. Winkey, Sr., by their Solicitors Donald G. Murray and Charles H. Houston, respectfully represent unto your Honor:

1. That each of the adult complainants is a citizen and resident of the United States of America and the State of Maryland, and as such entitled to all the rights guaranteed them by the Constitution and the laws of the United States, particularly the Fourteenth Amendment and the Federal Civil Rights Law 8 U.S.C.A. Sections 41 and 43; that each of the adult complainants is a resident and taxpayer of Baltimore City, living on Druid Hill Avenue or McCulloh Street where they have made their homes since the date of the acquisition of their properties, photostatic copies of the deeds by which each of the Complainants acquired their title, or the receipted tax bills covering the same being attached to the original Bill of Complaint and prayed to be considered herewith designated as Complainants' Exhibit #1 to 7, inclusive; that some of the adult Complainants are parents of the individual minor Complainants who are under their care and protection as part of their respective households. All the Complainants sue in their own rights and as representatives of a class of citizens, residents, and taxpayers, and children living on McCulloh Street and Druid Hill Avenue. This class is too large for all its members to be brought individually before this Court but their interests are fairly and adequately represented herein.

2. That the Respondents constitute the Mayor and City Council of the City of Baltimore, a municipal corporation, and have all the rights, duties and obligations of the Mayor and City Council of Baltimore City by virtue of the provisions of the City Charter approved by the voters of Baltimore City on November 6, 1946 and by its terms

effective May 20, 1947, and as such have supervision, control and management of the streets of Baltimore City and the Collection of Taxes of Baltimore City.

3. That Druid Hill Avenue and McCulloh Street since years long past have been developed into a highly desirable area containing approximately one thousand (1,000) homes of substantial character; that both McCulloh Street and Druid Hill Avenue have been zoned, in the blocks where Complainants' properties are located, residential use districts since years long past ;that such few business areas as are on either or both of the streets are predominantly local corner store consumer businesses, such as grocery, drug, restaurant, confectionary, etc., that prior to the passage of Ordinance #169 approved March 18, 1948 the vehicular traffic on McCulloh Street and more particularly Druid Hill Avenue, was local traffic of persons resident in or visiting the neighborhood and of moderate or below moderate volume; that the adult resident pedestrians, and the minor or child resident pedestrians prior to the passage of the said Ordinance #169, were comparatively safe in using said streets and intersections due to the fact that the vehicular traffic on the said streets was of moderate or below moderate volume.

4. That on the said streets the population density is far above the average population density of the remainder of Baltimore City; that there is no adequate playground and recreational space on or near these two streets for the children residing in this area which forces the children residing in this area to play on the sidewalks and in the streets on both Druid Hill Avenue and McCulloh Street; further that there are three Negro schools with a total enrollment of approximately two thousand, two hundred children (2,200) located on Druid Hill Avenue and Lafayette Avenue, Druid Hill Avenue near Biddle Street, and McCulloh Street and Lafayette Avenue; there are six (6) more Negro schools within one (1) or two (2) blocks of McCulloh Street or Druid Hill Ave-

nue with a total enrollment of approximately one thousand, nine hundred children (1,900) located at Division Street near Lanvale Street, Preston Street near Druid Hill Avenue, Pennsylvania Avenue and Dolphin Street, Pennsylvania Avenue and Robert Street, Biddle Street near Pennsylvania Avenue, and Francis Street near Pennsylvania Avenue. That hundreds of Negro school children of immature age and discretion are forced to cross and recross Druid Hill Avenue and McCulloh Street every school day to get to and from said nine (9) schools, and for other purposes. That further, all the Negro school children living in the northwest section of Baltimore City east of McCulloh Street and Druid Hill Avenue are forced to cross these streets and intersections because there are no schools for Negro children in this communal area east of McCulloh Street.

5. That the minor Complainants are pupils of the public schools in this area resident on McCulloh Street and have to cross one or both the said streets to attend school.

<i>Name</i>	<i>Residence</i>	<i>School</i>	<i>Crosses to Attend School</i>
Thomas H. Winkey, Jr.	2567 McCulloh St.	P. S. 120	Druid Hill Ave. & McCulloh St.
Nancy Winkey	2567 McCulloh St.	P. S. 120	Druid Hill Ave. & McCulloh St.

6. That by said Ordinance #169, approved March 18, 1948, over the vehement protest of Complainants and other residents and taxpayers living on Druid Hill Avenue and McCulloh Street, the Respondents designated Druid Hill Avenue and McCulloh Street one-way streets for through truck, automobile and bus travel from the outlying sections of Baltimore City to the downtown section of Baltimore City; that the effect of such designation, has already been to increase the traffic on both streets to the extent that it has become hazardous and dangerous for the minor Complainants to cross the streets to school and for other purposes, and to play on the sidewalks and about the streets as before; that the traffic load on the said streets will progressively increase

until traffic becomes a continuous and ever present hazard not only to minors but also to adults; and your Complainants specifically point out that the peak of the morning traffic load comes during the very time that the minor Complainants and other children are forced to cross the said streets to get to their respective schools.

7. That the effect of the said Ordinance will be to change the character of the traffic from local traffic to high speed through traffic, further endangering the safety of the residents of the said streets; that upon abandonment of fixed rail traffic as provided by the ordinance, busses are proposed to travel on Druid Hill Avenue which still further increase the noise, the noxious fumes and foul odors in the air from the volume of traffic creating hazards to the health of the residents and Complainants and depriving the residents and Complainants of their rights to peacefully and quietly enjoy their respective homes.

8. That the aforesaid conditions create a public nuisance specially injuring the Complainants and the class they represent; that the Respondents acted in the premises arbitrarily and capriciously and with utter disregard for the health, welfare, comfort, and safety of the Complainants and the class they represent; and the Respondents by so acting denied your Complainants and the class they represent the equal protection of the law guaranteed them by the Fourteenth Amendment to the Constitution of the United States.

9. That the Respondents on or about October 1, 1947, caused the tax assessments on some of the adult Complainants' properties to be increased, said increase being predicated on the use and value of said properties as residences and for residential purposes exclusively; that under the law, the time for appealing from said increased assessment has expired and they are final and binding.

<i>Name</i>	<i>Property</i>	<i>Old Date</i>	<i>New Date</i>
Clarence M. Mitchell, Jr.	1324 Druid Hill Ave.	\$3780—1947	\$5080—1948

10. That when the Respondents caused the tax assessments to be increased, they had already decided to change Druid Hill Avenue and McCulloh Street to one-way arterial thoroughfares and had secretly put city machinery to work to that end; and they further well knew that the effect of making these streets one-way arterial thoroughfares for through traffic would be to decrease materially the value of the Complainants' properties as residences and for residential purposes. Notwithstanding, in order to lull the Complainants into inaction against said increase in tax assessment, and to deprive and conceal from them the fact that they had already decided on action which would decrease substantially the value of the Complainants' properties for residential purposes, the Respondents did withhold public action on making said streets one-way arterial thoroughfares, and did increase said assessments for residential purposes until after the statutory time for appealing from the said increase in assessments had expired and only then did the Respondents officially designate said streets as one-way arterial thoroughfares; thereby fraudently representing to the Complainants that they had no present plans to destroy the value of the Complainants' property and lulling the Complainants into quiescence. The Complainants say that if they had known Druid Hill Avenue and McCulloh Street had already been programmed as one-way arterial thoroughfares, they would have protested the tax increase, but being ignorant of that fact and relying on the good faith of the Respondents not to destroy the value of their properties as residences or for residential purposes, they took no action as provided by law to resist the said tax increase. They are without remedy against said increase except by injunctive relief in this Court, and say that the increase of said assessments leaves the Complainants completely without remedy. The increase of said assessments under these circumstances constitutes depriving the Complainants of their property without due process of law as guaranteed them

by the Fourteenth Amendment of the Constitution of the United States of America.

11. That your Complainants are advised that individually and as specially interested citizens and taxpayers of Baltimore City and on behalf of other citizens and taxpayers having similar rights, duties and obligations, they are entitled to restrain the Respondents from enforcing this ordinance.

12. That because of the said action or threatened action, your Complainants allege that they are or will be irreparably injured and damaged and that they have no adequate remedy by law, and that unless this Honorable Court intervenes by way of injunction, your Complainants and others will be deprived of their lawful rights to enjoy the peace and quiet of their respective homes.

To The End, Therefore, That:

Your Complainants respectfully pray that this Court set the date for a full hearing in this case as expeditiously as possible, so that the Complainants may be fully and finally heard, and upon and after hearing upon the merits:

(a) That this Honorable Court issue a permanent injunction restraining the Respondents from enforcing Ordinance #169 making the said streets one-way arterial thoroughfares to the great detriment and irreparable damage and harm to your Complainants.

(b) That your Honorable Court declare this ordinance illegal and void and all acts, measures and things done or to be done thereunder or in consequence thereof be restrained or enjoined forever.

(c) That your Honorable Court issue a permanent injunction restraining the Respondents from collecting any taxes based upon increased assessments in 1947 upon any of the residential properties located on McCulloh Street and Druid Hill Avenue because of the fraudulent manner

in which such increased assessments were made by the Respondents.

May It Please Your Honor to grant unto your Complainants the Writ of Subpoena directed to the Respondents in their official capacities and comprising the Mayor and City Council of Baltimore City, directing them and each of them to be and appear in this Honorable Court on some certain date to be named therein to answer and abide by such order or orders that may be passed therein.

And to grant such other and further relief as the nature of the Complainants' case may require.

And, As In Duty Bound, etc.

DONALD G. MURRAY,

CHARLES H. HOUSTON,

Solicitors for Complainants.

(Affidavit attached.)

ANSWER TO AMENDED BILL OF COMPLAINT

The Mayor and City Council of Baltimore, a municipal corporation, by Thomas N. Biddison, City Solicitor, and Hamilton O'Dunne, Assistant City Solicitor, in answer to the Amended Bill of Complaint in the above entitled case, represents unto this Honorable Court:

1. In answer to Paragraph 1 of the Amended Bill of Complaint, your Respondent admits the allegations therein except that your Respondent has no knowledge whether the Complainants sue as representatives of a class of citizens, residents and taxpayers and children living on McCulloh Street and Druid Hill Avenue.

2. In answer to Paragraph 2 of the Amended Bill of Complaint, the allegations therein are admitted.

3. In answer to Paragraph 3 of the Amended Bill of Complaint, your Respondent states that the description

of the neighborhood therein is so described as to be a characterization thereof by the Complainants, and, so as not to disclose to the Respondent sufficient facts to allow your Respondent either to admit or to deny the allegations therein, the Complainants allege that Druid Hill Avenue and McCulloh Street have developed into a "high desirable area" containing homes of "substantial character", and such expressions can only evidence the subjective determination of the Complainants and do not constitute facts capable of affirmance or denial. In further answer to said Paragraph, your Respondent denies that prior to the passage of Ordinance No. 169, approved March 18, 1948, the vehicular traffic on McCulloh Street and Druid Hill Avenue was local traffic of persons resident in or visiting the neighborhood. The allegations therein that this traffic was "of moderate or below moderate volume" and that persons "were comparatively safe in using said streets and intersections due to the fact that the vehicular traffic on the said streets was of moderate or below moderate volume" again represent conclusions of the Complainants and there are no standards by which said descriptions can be interpreted so as to be rendered capable of affirmance or denial. Therefore, all of said statements are neither admitted nor denied by said Respondent but proof thereof is demanded so that the meaning thereof may be determined by your Respondent.

4. In answer to Paragraph 4 of the Amended Bill of Complaint, the allegations therein with respect to number and location of schools and the number of children attending, are admitted, but the allegation that "on the said streets the population density is far above the average population density of the remainder of Baltimore City" is so vague, indefinite and intangible as to be incapable of being answered by your Respondent, and thus this allegation is neither admitted nor denied but strict proof thereof is demanded so that the meaning thereof may be determined by your Respondent.

5. In answer to Paragraph 5 of the Amended Bill of Complaint, the allegations therein are admitted.

6. In answer to Paragraph 6 of the Amended Bill of Complaint, it is admitted that Ordinance No. 169, approved March 18, 1948, designated Druid Hill Avenue and McCulloh Street one-way streets. In further answer, your Respondent states that the Complainants have no vested right to have their children play in the public streets of Baltimore City entirely free from traffic hazards and that traffic hazards are necessarily present on streets where there is a flow of traffic, but that this is a necessary hardship which must be borne by persons living in Cities or heavily traveled areas.

7. In answer to Paragraph 7 of the Amended Bill of Complaint, your Respondent states that the speed of traffic will continue to be regulated by the police and that although increased traffic does increase traffic noise and traffic fumes, such noise and fumes are indigenous to all Cities where there is motorized traffic and that to that extent the Complainants have no vested right to live in their homes in the City entirely free from traffic noises and fumes.

8. In answer to Paragraph 8 of the Amended Bill of Complaint, the allegations therein are denied.

9. In answer to Paragraph 9 of the Amended Bill of Complaint, the allegations therein are admitted.

10. In answer to Paragraph 10 of the Amended Bill of Complaint, your Respondent states that the increased assessments complained of were not made with any fraudulent intent or so timed as fraudulently to deter the Complainants from protesting the assessments, but were made pursuant to a plan adopted according to law by which one-fifth of all property in the City of Baltimore is re-valued and re-assessed every year and that the increase in property values in the area in which the said properties were located and that the assessment was

made independently of any effect which the passage of Ordinance No. 169, approved March 18, 1948, would have on said property. The Respondent vigorously and vehemently denies that the assessments were increased with any fraudulent or nefarious purpose and further denies that by reason of such assessments the Complainants have been deprived of any Constitutional rights.

11. In answer to Paragraph 11 of the Amended Bill of Complaint, it is admitted that the Complainants received the advice which the said Paragraph alleged they received.

12. In answer to Paragraph 12 of the Amended Bill of Complaint, your Respondent denies the allegation therein.

Wherefore, having fully answered, your Respondent prays the Amended Bill of Complaint be dismissed with costs.

THOMAS N. BIDDISON,

City Solicitor,

HAMILTON O'DUNNE,

Assistant City Solicitor,

Solicitors for Respondent.

(Affidavit attached.)

OPINION

MASON, J.:

The Bill of Complaint in this case was filed on June 6th, 1948, by the plaintiffs as citizens, residents and taxpayers of Baltimore City living on Druid Hill Avenue or McCulloh Street. It recites that Druid Hill Avenue and McCulloh Street are residential streets, and prior to the passage of Ordinance No. 169 of the Mayor and City Council of Baltimore City, were safe for pedestrians due to the fact that vehicular traffic on said streets was of

moderate or below moderate volume. That because of the density of population, the absence of recreational space, the large number of schools and the many scholars in them, many children of immature age and discretion are forced to cross the two streets. That by Ordinance No. 169 approved March 18, 1948, over the protest of complainants, the respondents designated Druid Hill Avenue and McCulloh Street one way streets for through truck, automobile and bus travel from the outlying sections of Baltimore City to the downtown section of Baltimore City, which has increased the traffic on both streets and rendered them hazardous and dangerous. That the Ordinance will further change the character of the traffic to high speed traffic and increase the noise, noxious fumes and foul odors and deprive the residents and complainants of their right to peacefully and quietly enjoy their respective homes. Complainants then go on to charge that the aforesaid conditions create a public nuisance specially injuring them.

After the foregoing, complainants allege that on or about October 1st, 1947, respondents caused the tax assessments on some of the adult complainants properties to be increased, it being then too late to appeal from said increased assessment. That the respondents had determined to make said streets one way arterial thoroughfares but withheld said information until the assessments were increased, thereby lulling complainants into inaction until it was too late to appeal the assessments. The Bill prays for an injunction restraining the enforcement of Ordinance No. 169 making said streets one way arterial thoroughfares and restraining the City of Baltimore from collecting any taxes based upon increased assessments in 1947 upon any residential properties located on McCulloh Street and Druid Hill Avenue.

A demurrer was filed to the bill and it was overruled with leave, however, to amend and thereafter an amended Bill was filed which does not differ substantially from the original bill.

On September 23, 1948, respondent filed its answer stating that traffic hazards are incidents of all cities or heavily traveled areas, that the speed is regulated by the police department and that traffic noise and fumes are "indigenous" to all cities. Respondent denied that conditions caused by the one way streets specially injured the complainants or that it acted arbitrarily or capriciously or denied complainants the equal protection of the law.

Respondents admitted that the assessments were increased on or about October 1, 1947, but stated that the increased assessments were not made with any fraudulent intent or timed to deter the complainants from protesting but pursuant to a plan by which one-fifth of all property is revalued and reassessed every year. That the assessment was made independently of any effect which Ordinance No. 169 would have on said property.

Taking the first question that is as to traffic hazards—That there will be increased traffic upon the two streets can hardly be denied. The testimony in the case certainly indicates an increase in traffic. Whether this will produce the hazards to life and limb anticipated by the complainants is another question. The figures on St. Paul and Calvert Streets do indicate a very slight increase in accidents. Common experience indicates an increase in noise and dust. There will also be the disadvantage to the property owners of having restricted parking on the streets. Assuming all these things is the Court justified in enjoining the enforcement of the Ordinance. Although the complainants produced certain testimony in support of above allegations, nevertheless, the traffic experts, employees of the City, whom the complainants called to testify, stated that in their opinion the making of the streets one-way would have the effect of decreasing rather than increasing safety hazards. However, these allegations, even conclusively proven, would not be sufficient to entitle the complainants to the relief which they seek.

In the case of *Murphy v. State Roads Commission*, 159 Md. 7, 15, the Court of Appeals said:

“Ordinarily the question of whether a proposed highway is required by public necessity is legislative rather than judicial (*Elliott on Roads and Streets*, sec. 213; *Nichols on Eminent Domain*, secs. 333, 334); and while the question as to whether the proposed use is public in its nature may ultimately become a judicial one (*Ibid.*, sec. 52; *Van Witsen v. Gutman*, 79 Md. 405), when the Legislature has determined that a proposed improvement in public in its nature, the prima facie presumption is that the use thus declared to be public is public. (*Nichols, Eminent Domain*, sec. 52.)”

Indeed, this Bill of Complaint seems rather conclusively controlled by the case of *Baltimore v. Himmel-farb*, 172 Md. 628. In that case the property owner sought damages against the City for loss of value to his property by reason of deprivation of light and air, and invasion of dust and gases resulting from the erection of a viaduct across St. Paul Place. There was testimony tending to prove that the plaintiff's light and air from the south and west were materially cut off, that shadows darkened his house severely, that whirls or currents of air caused by the construction carried exhaustive dust and gases into his house and diminished the use of it. The Court, however, held that none of these elements entitled the plaintiff to damages against the municipality.

The Court said that in the absence of the actual taking of private property in a situation of this kind there could be no liability on the part of the City. The Court declared at page 631:

“There has been no destruction of access or use of the plaintiff's property. The cutting off of light and air as described could not constitute destruction of it, nor could the blowing of dust and gases into it, except by a fiction too far removed from the fact. The

light and air are not obstructed directly, or obstructed at all beyond a degree that is common among city buildings. Tall municipal office buildings on both sides of the street might have interfered as much, but would not have given a right to compensation. So a much-traveled highway relocated in front of a house might cause as much dust and gas to enter, but gives no such right. The damages are only consequential. And the case is analogous to that of *Mayor, &c., of Cumberland v. Willison*, 50 Md. 138, in which it was held that damages done to the water power of a mill by means of an increased flow of water carryin debris into the race caused by the grading and paving of a street was not taking of the property. 'Property thus injured is not in the constitutional sense taken for public use.'

"Public improvements often cause severe incidental damages for which, under this rule, no compensation may be obtained. But it must be remembered, as has been pointed out in other case, that despite the examples of constitutional amendments and statutes enacted in other jurisdictions to provide the compensation, none have been enacted in this State; and the fact imposes on the courts all the more firmly the duty of observing the limits of the constitutional prohibition. It is not their part to provide otherwise. *Garrett v. Lake Roland Elec. Co.*, 79 Md. 277, 183, 29 A. 830; *Krebs v. State Roads Commission*, 160 Md. 584, 594, 154 A. 131."

Another suggestion made by the complainants is that they were not aware of the fact that the Ordinance making the above-mentioned streets one-way streets was being considered or that any consiedration was being given to the designation of these streets as one-way streets. Although the record discloses that as early as 1945 rather widespread publication was given to the general plan under consideration, including the publication of a map containing these streets and the contemplated

change thereof to one-way streets, nevertheless, even the complete lack of knowledge on the part of the complainants would not be sufficient to justify the Court in enjoining the enforcement of the Ordinance. As the Supreme Court has said in the case of *Townsend v. Yeomans*, 301 U.S. 441, 451, the legislature acting within its sphere is presumed to know the needs of the people of the State. The subject matter, therefore, of streets, being one delegated to the City of Baltimore by Section 6, sub-section 29, of the new Baltimore City Charter, action taken by legislature in this field is presumptively correct. There is also some complaint made by the complainants that the points of view of the residents of the neighborhood were not given proper consideration. Again, however, this contention is answered by the *Yeomans* case, *supra*, wherein the appellants contended that certain legislature action was invalid and should be considered as arbitrary because taken without investigation. The Court disposed of this contention and stated:

"There is no principal of constitutional law which nullifies action taken by a legislature, otherwise competent, in the absence of a special investigation. The result of particular legislative inquiries through commissions or otherwise may be helpful in portraying the exigencies to which the legislative action has been addressed and in fortifying conclusions as to reasonableness."

The Supreme Court has held similarly in the case of *Bowles v. Willingham*, 321 U.S. 503, 519. In the *Willingham* case the congressional rent control legislation was challenged because there was no provision for a hearing giving landlords a chance to express themselves before a regulation fixing rents became effective. The Court held that there was no obligation on the legislative body to grant a hearing to those who would be affected by passage of the legislation and quoted from an opinion of Mr. Justice Holmes:

"Where a rule of conduct applies to more than a few people it is impracticable that every one should have a direct voice in its adoption. The Constitution does not require all public acts to be done in town meeting or an assembly of the whole. General statutes within the state power are passed that effect the person or property of individuals, sometimes to the point of ruin, without giving them a chance to be heard. Their rights are protected in the only way that they can be in a complex society, by their power, immediate or remote, over those who make the rule."

In reply to this, complainants say that while it may not be necessary for the City Council of Baltimore to hold a hearing on a proposition such as this, when it does announce and hold a hearing it must be in good faith and not *pro forma*. They further say that in this case the authorities had decided to make the streets one-way before the hearing was held and as proof of that say the City had spent about \$400,000.00 upon the driveway around the southeastern perimeter of Druid Hill Park which would be of little use without the one-way streets. The answer to this seems to be that the proposition had been discussed as early as 1945. Plans and reports had been made advocating the change and an ordinance had been introduced in the City Council. This ordinance, however, had not been passed by the Council and, of course, it had not been signed by the Mayor. It is true that the Mayor testified that at the hearing he told some of the complainants or their neighbors that he would sign the ordinance if the Council passed it. Ordinance No. 169 had not been passed or approved when the hearing was held, it was still open, could have been defeated and whatever the convictions of Mr. Holland, Chief Engineer, or the Mayor, one cannot say that the hearing was a farce or fraud.

The complainants have also asked that a permanent injunction be issued to restrain the City from collecting

any taxes based upon increased assessments in 1947 upon any of the residential properties located on McCulloh Street and Druid Hill Avenue because of what is alleged to be the fraudulent manner in which the increased assessments were made by the respondents.

The fraud is said to exist because Ordinance No. 169 was approved after it was too late to take an appeal from the increased assessments. This fact alone would not be sufficient to justify the Court in finding the assessment fraudulent. Mr. Fitzpatrick, the head of the Department of Assessments, was called by the complainants, and he testified that the properties involved were assessed in 1947 pursuant to the plan adopted in accordance with Section 175, sub-section 8 of Article 81 of the Maryland Code, 1939 edition. This last referred to Article directs that for the purpose of assessments for tax purposes the City of Baltimore be divided into five geographical districts, and that the property in each district should be re-assessed or at least reviewed for re-assessment purposes once every five years. Thus, the statutory scheme embraced within that section of the Code just referred to results in a reconsideration for re-assessment purposes of all the property in the City once every five years.

Mr. Fitzpatrick further testified, and the complainants produced no evidence to contradict him, that the property involved in this case was re-assessed in 1947 pursuant to the terms of Article 81, section 175, *supra*. He testified that this property was within the geographical district scheduled for reconsideration and re-assessment in 1947 and that none of the property was re-assessed out of the normal order in which it would have been in accordance with Article 81, section 175 of the Maryland Code.

The complainants have produced testimony of owners of property in the vicinity to the effect that the increased traffic on Druid Hill Avenue and McCulloh Street has rendered the enjoyment of their property less desirable

than formerly, and thus decreased the value of their property. However, although the time for appeal to the Board of Municipal and Zoning Appeals for the purpose of contesting the assessment has expired (Section 129, Baltimore City Charter, effective May 20, 1947), nevertheless, the complainants have not availed themselves of the remedy provided by Section 190 of Article 81 of the Maryland Code, 1939 edition. This section of the Code provides that upon the request of a taxpayer the Appeal Tax Court (now the Board of Municipal and Zoning Appeals) shall hold a hearing for the purpose of reconsidering assessments providing the demand be filed before July 1st preceding the taxable year in question. Although the evidence is clear, that well in advance of last July 1st, 1948, the complainants were made aware of the situation about which they now complain, none of them demanded a reconsideration by the Board for the purpose of re-assessing their property. Thus, it is apparent that as far as the assessments of the complainants' properties are concerned, they had an adequate remedy at law but did not avail themselves of the opportunity to use it. If the complainants are still of the same opinion next spring as they expressed themselves presently to be in the Bill of Complaint, then they may file a demand for a reconsideration of their assessments pursuant to Section 190 of Article 81 of the Maryland Code, but the situation does not seem to be one for interference by a court of equity.

For the foregoing reasons the Bill will be dismissed and a decree may be submitted accordingly.

January 21st, 1949.

DECREE

The above entitled case having come on for hearing and testimony having been produced by all parties and heard in open court, counsel for each party having been heard and memoranda of the law having been submitted

by counsel for all parties, and the testimony, arguments and memoranda having been considered, it is this 26th day of January, 1949, by the Circuit Court No. 2 of Baltimore City, Decreed, that the Bill of Complaint in the above entitled case be dismissed, the costs to be paid by the Complainants.

E. PAUL MASON,

Judge.

TESTIMONY

(St. Tr. pp. 3-122):

GEORGE A. CARTER,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Houston:

Q. Your official position with the city? A. Deputy Director of Public Works.

Q. You have been Deputy Director for how long? A. Since July of 1947, when the new charter went into effect.

Q. Prior to that time you were what? A. Deputy Chief Engineer.

Q. You were Deputy Chief Engineer for how long? A. I think October, 1943.

Q. Who was the Chief Engineer at that time? A. Nathan L. Smith.

Q. Were you the second in the office under Mr. Smith? A. That is right.

Q. During that time did your office make any recommendations concerning the designation of Druid Hill avenue and McCulloh street prospectively as one-way

streets? A. Mr. Smith prepared a report entitled "Analysis of Traffic Conditions and Present and Post-War Highway Requirements." That was dated in May of 1945, I believe. In that report he had recommended certain one-way street operations, McCulloh and Druid Hill avenue being one of them.

Q. Do you have that report with you, sir? A. I certainly do. (Witness produced document and exhibited same to counsel.)

Q. Will you turn to the section of the report in which the recommendation is made? A. On page 21.

Q. How far does the report deal with Druid Hill avenue and McCulloh street? A. I think there is another reference there a few pages back.

(Mr. O'Dunne) I think on page 29.

(The Witness) Yes, on page 29.

(Mr. Houston) May I ask that this be marked as Plaintiffs' No. 1.

(Mr. O'Dunne) The whole book?

(Mr. Houston) Yes, the whole book, and I will read certain sections.

(Document referred to offered and received in evidence as Plaintiffs' Exhibit 1.)

(Mr. Houston) If the Court pleases, I am reading now from page 21:

"The Commission on City Plan is making similar studies to determine the feasibility of one-way street development to the northwest. This problem is more difficult, due to the operation of important car lines on Pennsylvania Avenue, Madison Avenue and Druid Hill Avenue. There are now street car routes traversing these three streets, three streets, all of which connect the general vicinity of the Park Terminal with the western

part of the Central business district. If these lines can be combined on Pennsylvania Avenue and Madison Avenue, Druid Hill Avenue may be used in combination with McCulloh Street for alternate one-way traffic.

"McCulloh Street is now designated as a through highway, but at its northern terminus it is quite inaccessible. By carrying both McCulloh Street and Druid Hill Avenue across the corner of Druid Hill Park into Auchentoroly Terrace and widening that thoroughfare, excellent connection can be made with Gwynns Falls Parkway, Liberty Heights Avenue and Reisterstown Road. If, by reason of the operation of these transit lines out of the Park Terminal, Druid Hill Avenue could not be freed of street car tracks, it would then be desirable to use Madison Avenue for this purpose, transferring the lines operating thereon to Druid Hill Avenue and directing traffic northbound upon it, and southbound on McCulloh Street."

(Mr. Houston) Then on page 29:

"Ultimately an expressway from the vicinity of Franklin and Pearl Streets to the southwest corner of Druid Hill Park or to the general vicinity of Fulton Avenue and Pennsylvania Avenue, thence continuing northwest and connecting with Gwynns Falls Parkway, Liberty Heights Avenue, Reisterstown Road, Wabash Avenue, Park Heights Avenue, and Greenspring Avenue will be required. Two tentative locations have been considered for this expressway; one to the west of Pennsylvania Avenue and the other to the east. The latter would be more direct, but would involve the use of the western edge of Druid Hill Park. The former would be longer and would require the acquisition of a greater amount of private property. We recommend the prompt study of both locations to the end that the most feasible route may be selected and control of the development of property affected by it undertaken.

"For the immediate future, the development of one-way street traffic should be undertaken, and we reiterate the desirability of removing the car tracks from either Druid Hill Avenue or Madison Avenue and the use of these thoroughfares in combination with McCulloh Street as the most desirable."

Q. What was done with this report? A. It was given wide publicity, submitted to the Mayor, approved by the Mayor, and submitted to the Commission on Plan and approved by that Commission. In addition, negotiations were started with the Transit Company to realize some of the recommendations in the reports.

Q. Specifically did Mr. Smith ask the Transit Company for the following changes: The removal of tracks from Druid Hill Avenue so that Druid Hill Avenue and McCulloh Streets could be made one-way streets? A. That is right.

Q. That was approximately when? A. I think November, 1947. The negotiations culminated in the publishing of The Riders Digest of the Transit Company.

Q. Do you mean 1947 or 1945? A. 1945. I beg your pardon.

Q. Do you have the report that the Baltimore Transit Company made to the Mayor and members of the City Council? Let me ask you this: Is the report in The Riders Digest a verbatim report? A. I would not know, sir.

Q. Did the Transit Company make a report to the Mayor and City Council? A. That I don't know either.

Q. Did it publish a reply? Did it publish copies of its report or what purported to be its report to the Mayor and City Council in its Riders Digest of November, 1945? A. Just by reading this I assume so. I have no evidence to that effect.

Q. Did there come to your department knowledge that a report had been made by The Baltimore Transit Company concerning the request of Mr. Smith to designate—to remove the tracks from Druid Hill Avenue, so that Druid Hill Avenue and McCulloh Street could be made one-way streets? A. I assume so; yes.

Q. As Deputy Chief Engineer at that time, didn't you know, as a matter of fact, that the knowledge did come to your department that The Transit Company had made such a report? A. The report was not submitted to me. We investigated the reroutings as suggested in the Riders Digest. The Riders Digest came to me, not the official report of the Transit Company to the Mayor and City Council.

Q. But there did come to your department suggested reroutings which the Transit Company proposed? A. That is right.

Q. And the justifications for those reroutings also came to your office? A. That is true.

Q. On the basis of that, did there come a time when a cut-off was made near Auchentoroly Terrace in Druid Hill Park? A. Do you mean the paving of a road around the western perimeter of Druid Hill Park, is that what you mean?

Q. All right, yes. A. Yes.

(The Court) You do not mean to cut off the street car line.

(Mr. Houston) Oh, no. My question was not clear.

Q. Following the report of the Transit Company, acting upon the request of Mr. Smith, for the removal of car tracks from Druid Hill Avenue, so that Druid Hill Avenue and McCulloh Street could be made one way streets, did thereafter come a time when a road was cut through Druid Hill Park near Auchentoroly Terrace? A. That is right, yes, sir. There is an official letter in

the file submitting such a proposal to the plan Commission.

Q. Will you get us that letter and give us the date?
A. That letter was August 9th, 1946.

(Mr. Houston) I would like to introduce this as Exhibit No. 2.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 2.)

Q. Prior to the proposed dual highway that is mentioned in the letter of August 9th, 1946, from the Chief Engineer to Mr. Maxwell, as director of the Parks, what were the outlets from Druid Hill Park south coming to the center of the city? A. The outlets from Druid Hill Park?

Q. Yes. A. Druid Hill Avenue, I think Auchentoroly Terrace or east of Auchentoroly Terrace, another one at Druid Hill Avenue, another at Madison, and another at Eutaw.

Q. Which was the main one? A. I would say Eutaw.

(The Court) The one at Druid Hill Avenue was an inlet, wasn't it?

(The Witness) I believe it was, Judge, one way in.

Q. Was there a reply by Mr. Maxwell to this letter from the Chief Engineer of August 9th, 1946? A. The reply took the form of suggestions in so far as paths, and whatnot, and the final approval was in the form of discussing the only letter we have from Maxwell.

Q. Wasn't there a reply from Mr. Maxwell concerning certain solicitude for the trees in Druid Hill Park?
A. No, not that I know of, sir.

Q. Did the Chief Engineer's office, in making that recommendation, consider the damage to the trees? A. Very definitely. The trees were located by a survey

party and a road through the park, around the perimeter of the park, was suggested to do as little damage as possible.

Q. When you get out of the park, down Druid Hill Avenue, what was the nature of that neighborhood? A. Nature of the neighborhood?

Q. What was the nature of the territory there? The streets through which Druid Hill Avenue passed, the proposed one-way street.

(Mr. O'Dunne) Is that going south?

(Mr. Houston) Yes. My difficulty is that I don't know the city directions.

A. I would say the character of that development was the same as any other in town, residential and some commercial scattered along the residential.

Q. What about McCulloh Street? A. About the same I would say, maybe a little more residential than Druid Hill Avenue.

Q. Did your committee also take into consideration pedestrian traffic in Druid Hill Avenue and McCulloh Street? A. I think you are asking me questions that are not part of the Department of Public Works.

Q. I am talking about the Chief Engineer's office. A. That is the Department of Public Works. The Chief Engineer is the head of the Department of Public Works, or was the head of the Department of Public Works. The Chief Engineer of the Bureau under the Charter change was made head of the department. So far as the pedestrian traffic is concerned and so far as vehicular traffic is concerned, that is a function of the Traffic Division of the Police Department, and any studies made there were made by the Police Department.

Q. Do I understand, then, the only thing your department considered was the question of damage to the

trees? A. No, damage to any other property. We did not take into consideration traffic.

Q. Or safety? A. That is the work of the Police Department.

Q. Just answer my question. Did the Chief Engineer's office, in connection with the proposed designation of these streets as one-way streets, in connection with this dual highway through Druid Hill Park, take into consideration any other factors except the damage to the trees in Druid Hill Park?

(The Court) He answered that, didn't he? I thought he answered that by saying any other property damage. Isn't that right?

(The Witness) Yes, sir, I did.

Q. If you did not consider traffic, what was your concern about making these one-way streets? A. You asked me a specific question about pedestrian traffic. No, we did not make pedestrian traffic counts. We took into consideration traffic, which is one of the functions of the Department of Public Works in conjunction with the Police Department and Plan Commission, to solve traffic generally, but when it comes to making specific traffic counts, whether pedestrian or vehicular, our department does not do that.

Q. I am not asking you about specific traffic counts. Do you consider pedestrian traffic as part of the total traffic? A. Certainly.

Q. Did you consider pedestrian traffic as a part of the total picture? A. Yes, sir. When we decided on the plan to make Druid Hill Avenue one-way we considered it the same as we considered pedestrian traffic when it was suggested that Calvert and St. Paul Streets be made one way, and Mulbery or Franklin.

Q. Part of the reason for designation of streets as one-way expressways is to increase the flow of vehicular

traffic on the streets, is it not? A. Also to make it safe for pedestrian traffic to cross it.

Q. Will you tell us, then, what was the character of the pedestrian traffic, particularly as to school children, crossing Druid Hill Avenue and McCulloh Street? A. What do you mean by character?

Q. What are the hazards? A. I don't understand the question.

Q. You have stated that pedestrian traffic was part of the total traffic picture which you considered. Would you also say that the question of school children crossing streets going to and coming back from school was part of the pedestrian traffic picture? A. Yes.

Q. Will you, then, tell us what was the condition of the school children, hazards to school children crossing back and forth over Druid Hill Avenue and McCulloh Street at the time that you proposed, your office proposed the designation of McCulloh Street and Druid Hill Avenue as one-way streets? A. I would say it was extremely hazardous with two-way operations on the streets.

Q. So that there was an extremely hazardous condition. How many schools were involved in the area? A. I have never counted them.

Q. There was no study of the schools and there was never a study of the school children, was there?

(Mr. O'Dunne) I am going to object to any further questions along this line on the ground they are not calculated to prove fraud.

(The Court) I don't know what it will lead to, but I will take it subject to exception and you can move to strike it out afterward.

A. The Planning Commission made those particular studies. I don't think, though, the Planning Commission studied the problem of how many schools were along the streets, how many churches along the streets.

Q. Did you have that before you when you made the suggestion? A. Yes.

Q. Do you have it now? A. No, it is in the records of the Planning Commission, not in the records of the Public Works office.

(Mr. O'Dunne) May my objection go to each of these questions?

(The Court) I will give you a general exception to this line of inquiry.

Q. When was the dual highway through Druid Hill Park completed?

(The Court) Don't you want, while you are on that point, to ask him anything about the results? What part those studies played in the final decision?

(Mr. Houston) Yes, I will ask him that.

Q. When did you receive those studies from the City Planning Commission prior to your proposal of this dual highway and also the designation of McCulloh Street and Druid Hill Avenue as one-way express highways? A. If I remember it correctly, it was during the period between the report of Mr. Smith and the actual introduction of the Ordinance into the Council.

Q. So that Mr. Smith made his proposal prior to receiving a report of the City Planning Commission? A. Yes.

Q. Tell us when the proposed dual highway through Druid Hill Park or the edge of Druid Hill Park was completed? A. In January, 1948.

Q. When was this work on it begun? A. The contract for grading was advertised on May 17th, 1947, it was awarded on June 5th, and work started shortly after that.

Q. And it was completed in January? A. January, 1948.

Q. The whole value of this proposed dual highway was dependent upon the designation of Druid Hill Avenue and McCulloh Street as one-way streets? A. Yes, sir.

Q. So that unless McCulloh Street and Druid Hill Avenue were designated as one-way streets, the cost and trouble and damage to the city's park, Druid Hill park, for building that dual highway was wasted; is that correct? A. I would not say that, no. I mean it had a value. It could have been used as a branch of a dual highway north of Cloverdale Road.

(The Court) North of where?

(The Witness) North of Cloverdale Road. I believe it is just below the south perimeter of the park.

Q. So far as southern outlets are concerned, the immediate purpose was to take care of the traffic at Druid Hill Avenue and McCulloh Street? A. That is right, but it could still be used. If there was no one-way operation on Druid Hill Avenue and McCulloh Street the roads through the park could be used as two way highways because they carry the same traffic as Druid Hill and McCulloh do south of the park.

Q. But they were constructed for the purpose of taking the traffic off Druid Hill Avenue and McCulloh Street? A. Yes.

(The Court) Hasn't that dual highway been blocked off ever since it has been completed?

(The Witness) It has been blocked off at Fulton Avenue by reason of the traffic coming up. If you made them both two ways and divided them by a center line, we would be all right; but pending the decision of this case we had to block Fulton Avenue, with the resultant confusion of traffic at Fulton Avenue, and the new highway.

Q. And the funds for that came from the reconversion fund of the street car company, did it not? A. I believe so, yes.

(Mr. Houston) Your witness.

CROSS-EXAMINATION

By Mr. O'Dunne:

Q. Mr. Carter, the Judge just asked a question whether a certain segment of this new improvement has been blocked off. You said yes, it had. Can you tell us why it was blocked off? A. Awaiting the outcome of this particular case. It would be a hazardous thing otherwise. We are carrying the traffic down Auchentoroly terrace southbound, and to put it into effect northbound, it would have been hazardous, and for that reason the traffic has been diverted into McCulloh Street.

Q. In other words, it has been blocked off to prevent an increase in safety hazards? A. Yes, that is right.

Q. You, being in the engineering department of the city, are familiar with the way a project of this character is eventually placed before the City Council. What is the practice of your department with respect to approval or disapproval of a project of this character in presenting it to the City Council? In other words, do you approve the project first? A. There are two phases to this. The phase involving the road through the park does not require legislative action or action by the City Council. That particular phase is administrative. Funds were available from the Transit Company money. The park, of course, is park property and required the approval first of the Plan Commission, and second, approval of the Board of Park Commissioners before your actual paving or construction of a new highway could get started. When it came to McCulloh Street and Druid Hill Avenue as a designation of one-way streets by ordinance, the usual procedure on that is to have the Police Department, the Department of Public Works and the Plan Commission collaborate in the ordinance, and the ordinance introduced in the council and followed through from there. The council refers it back to the Board of Estimates, back to Public Works, and back to the Plan Commission for recommendation, and that same thing is gone through

again before the Mayor signs it. So that there are recommendations made by the official agencies before the Ordinance becomes law.

Q. Prior to the time the ordinance is submitted to the Council, the various departments of the City examine it? A. Police Department, Department of Public Works, and the Plan Commission.

Q. It has been alleged by the complainants in this case that City machinery was secretly put to work on this project. Do you know anything about City machinery secretly put to work on this project? A. I certainly do not. The project, so far as a project was concerned, received wide newspaper publicity. I think I have some or at least one newspaper clipping in the file here.

Q. Mr. Carter, I hand you a paper which you have just handed me, and ask you if you can tell the Court what it is? A. It is briefly a map of the western edge of Druid Hill Park, which shows the proposed highway along that perimeter of the park connecting with McCulloh and with Druid Hill Avenue and showing existing routes through the park, showing how much more directly the proposed plan is.

Q. In the form in which you have this map, where did it originally appear? A. In The Morning Sun of September 30th, 1946.

Q. Of Baltimore City? A. Yes.

(Mr. O'Dunne) I would like to offer it as defendant's exhibit 1.

(Clipping referred to offered and received in evidence as Defendant's Exhibit 1.)

Q. As far as you know, was there any attempt to keep this project secret by any city department? A. None whatsoever. In fact, the day it was brought up to the plan Commission the press was present and carried a

story that very afternoon. Unfortunately, I don't have the clippings.

Q. From the time of Mr. Smith's first report in 1945, was there any effort, as far as you know, of any city officials to keep it a secret? A. None that I know of.

Q. As far as Druid Hill Avenue and McCulloh Street are concerned, they carry some traffic now? A. I am hardly a witness qualified to discuss the traffic count on those streets. We have people in court who are more qualified than I, but from personal observation I do know that McCulloh Street carries a good deal more traffic than Druid Hill Avenue on a two-way basis.

Q. Do you know the source of the traffic that now uses McCulloh Street and Druid Hill Avenue? A. I assume it originates in the northwesterly section of the city, either west of Pennsylvania Avenue and north and south of Gwynns Falls Park, right around to the north and even as far around as Green Spring Avenue.

(The Court) A lot of that traffic comes from Mount Royal Avenue and finds its way down St. Paul Street, doesn't it?

(The Witness) A good bit of it, yes, sir. That was one of the considerations in proposing our scheme for that northwest traffic as well as down Mount Royal Avenue, and it crosses at right angles with the extremely heavy north-south flow on Charles, St. Paul and Calvert, and this scheme was designed to remove or alleviate that traffic and make it practical for those people to go directly down town.

(The Court) The completion of Charles and Cathedral Streets as one-way streets would do more than anything else to remove that, wouldn't it?

(The Witness) That still would not remove that cross conflict crossing on Mount Royal Avenue with your north-south crossing traffic.

(The Court) What is holding up the Cathedral Street project?

(The Witness) The Transit Company conversion program. We have practically reached an agreement on their conversion project so that in the early spring we will be able to go ahead with that.

(The Court) That has been negotiated about two years, hasn't it?

(The Witness) That was all included in this Riders Digest, the proposed reconversion of the Transit Company, but the stumbling block occurred on the paving of Kelly Avenue in Mount Washington, which amounted to too many dollars for the city to economically appropriate so we had to agree on a scheme to take fixed wheel traffic out of Mount Washington to bus service.

(The Court) Has that ever been done?

(The Witness) We have almost reached a conclusion on that; not quite.

Q. I hand you a paper and ask you if you can identify that? A. That is a map prepared by the Bureau of Surveys at our request.

Q. Does this show the location of this proposed project? A. It shows the proposed one-way operation on McCulloh Street and Druid Hill Avenue and also shows the existing highway around the perimeter of the park.

(Mr. O'Dunne) I would like to offer this at this time and have it marked Defendant's Exhibit 2.

(Paper referred to offered and received in evidence as Defendant's Exhibit 2.)

Q. Were there any other choices of streets that could be used besides the ones selected, that is to say, McCulloh Street and Druid Hill Avenue? A. The only other choice was Madison Avenue as compared to Druid Hill Avenue, and that is further to the east than your Druid

Hill Avenue, and it would have meant, when you connected it with the park, it would disturb more of the park area.

Q. From an engineering point of view, would Madison Avenue have been as satisfactory as Druid Hill Avenue and McCulloh Street? A. Not quite for the reason you would have done more damage to the park and at the other end you would have more of a problem at your southern terminus of Druid Hill Avenue.

Q. More of a traffic congestion at the southern terminus of Madison Avenue? A. Yes.

Q. Would the use of Madison Avenue have had any effect on the non-automobile traveling public? A. I cannot see where it would have any more effect one way or the other.

Q. Would it have been feasible to have used Madison Avenue if the street car tracks had continued to use Madison Avenue? A. No. You could not possibly operate fixed wheel traffic two ways on a one-way street.

(Mr. O'Dunne) Your Honor, in order that the record may be fairly clear, I wonder if it would not be well, with the Court's permission, to mark it north, south east and west.

(The Court) I think that is a good idea. Suppose you mark it right now.

Q. I am pointing to immediately above two sets of lines, two of them diagonal and two of them straight, and immediately underneath is the other end of the map south, then facing the map I have north and on top of the part to the left is west and to the right is east. I will ask you to explain that map to the court? A. Generally the map is to show we are trying to establish one-way streets radiating from the congested business center in all directions if the street pattern so permits. Back in 1934, after negotiations with the Transit Company, street car tracks were removed from Franklin

Street and from Mulberry. That was the first one way street operation from a thoroughfare standpoint, in order to expedite the movement of traffic, and it proved, I think, very successful because traffic has moved a little freer from the western edge of the city into the business district. The final way of solving the traffic problem is by the construction of expressways or freeways with grade crossings. We had \$10,000,000 appropriated for that purpose, but we have not up to the present time been able to get the City Council to construct any freeway construction farther north than the Russell Street bridge and Kent Street in Westport. So we have to take advantage of what we have and that is two streets that are parallel with approximately the same curb width and designate them as one-way traffic, for one-way traffic. The second set of one-way traffic streets was the instigation of one-way traffic on Calvert and St. Paul Streets, which I think has expedited the movement of traffic from the central business district to the north.

(Mr. O'Dunne) Is it clear where those streets are on the map, your Honor?

(The Court) Yes. I can see they are designated by the heavy lines.

(The Witness) The next set we tried was the McCulloh Street and Druid Hill Avenue set and that ordinance is, of course, under consideration now. If that is passed we will probably consider the one-way operation on Orleans and Jefferson Streets east and connecting with the freeway from the southwest on Ridgely and Russell Streets, as you see designated by the dotted lines on the south end of the map.

Q. Actually that is St. Paul and Calvert Streets running directly north and south. A. North and south.

Q. And the dotted lines next to those— A. Are more or less for Cathedral and Charles Streets one-way designation.

Q. And to the left of that, in the northwest quadrant—
A. The McCulloh Street-Druid Hill.

(Mr. O'Dunne) All right, sir.

REDIRECT EXAMINATION

By Mr. Houston:

Q. You said that this dual highway has now been blocked off awaiting the outcome of this case; is that correct? A. Yes.

Q. And the reason it is blocked off is because as traffic now moves on Druid Hill Avenue and McCulloh Street there is such a hazard that it is dangerous to let that traffic flow into those dual highways, isn't it? A. As you have two way traffic on Druid Hill Avenue from Cloverdale north to Fulton Avenue, it would be hazardous to turn one-way traffic coming down Auchentoroly Terrace to conflict head on at that point.

Q. It is then true, isn't it, unless these one-way streets are designated as one-way streets, that the dual highway is useless? A. No, because you could make two way operation on the street above.

Q. What street would that be? A. Auchentoroly Terrace.

Q. How would that carry traffic? A. It would carry northbound the same as Druid Hill Avenue now carries it.

Q. Why is it you have not now designated Auchentoroly Terrace as a two-way street and given the city the benefit of this dual highway at the present time.

(Mr. O'Dunne) That is a conclusion.

(Mr. Houston) I asked him why.

(The Court) I will overrule your objection. I think they are entitled to know that. As a matter of fact, I

wondered myself why it has been blocked off so long if there is anyway it can be used in a practical manner.

A. From an expense standpoint, it would mean revising all the traffic signals along the line, and if we had one way operation it would mean changing the traffic signals back. Traffic is moving right now without any hazard, it moves every morning and it moves every evening, until this case is decided.

Q. But it is moving now with the highway blocked, isn't it? A. Yes, but you still have not overcome the objections or overcome the thing we designed this thing for, to eliminate the conflict between east-west traffic on Mount Royal Avenue with the conflict of north-south traffic.

Q. Then the whole conception of this dual highway was that Druid Hill Avenue and McCulloh Street would be one-way expressways? A. Not expressways, one-way streets; not expressways.

Q. Was there a hearing on this matter before the Police and Jail Committee of the City Council on February 17th and at which you testified?

(Mr. O'Dunne) I object as improper redirect.

(The Court) I think it is not proper redirect. I think Mr. Houston should confine himself to whatever the cross-examination was.

(Mr. Houston) All right, I will be very happy to.

Q. You testified that Madison Avenue would not be as satisfactory as Druid Hill Avenue for the reason that there would be more damage to the park? A. That is one reason.

Q. What would it do so far as alleviating hazards to the children crossing the streets on the way to and from school? A. None that I know of.

Q. Well, where are the schools located in that area? A. They are on the map.

Q. Are they east or west of Madison Avenue? A. Most of them are west of Madison Avenue.

Q. So that locating a highway on Madison Avenue would alleviate at least one of the one-way streets that the children would have to cross; isn't that correct? A. No, sir, because there are children living on the other side, so that they would still have to go across the street.

Q. Did you inquire or did you have the benefit of any study which showed— A. The Planning Commission studied all of it.

Q. Just a moment. Did you inquire or have the benefit of any study showing the distribution of these children's homes and the routes they had to take to school? A. No.

Q. As a matter of fact, you did not care what became of the children, did you, in designating these streets? A. We certainly would not have investigated—

Q. Can you answer that yes or no before you make your explanation? A. Yes, we took it into consideration for the reason we located the schools along with the number of students at each school, in that particular area.

Q. How many schools are in that area? A. Four of them, I think.

Q. When did you learn there were four schools in that area? A. From the information of the Planning Commission.

Q. When? A. I wouldn't have an idea.

Q. As a matter of fact, in 1947, February, 1947, you were of the opinion that there were only two schools in that area, weren't you? A. Abutting the street, yes.

Q. And you made that statement? A. Abutting the street.

Q. Didn't you also testify that regardless of the children you had to get this traffic down town? A. That is true, yes.

Q. And you testified to that at the hearing? A. That's right, yes.

Q. What information did you have at the time that you testified and made the statement that regardless of the children you had to get the traffic down town, what information did you have or any other city department concerning it? A. The Planning Commission study.

Q. What was the date of that study? A. I haven't the slightest idea. It was prior to our recommending an ordinance.

Q. You testified about getting the traffic down town, that was the whole purpose of getting this one-way street system is to take traffic off, not encourage traffic, but traffic from one extreme of the city, to bring it down to the time of the study, and vice versa, to take it out?

(Question objected to.)

A. That is the purpose of every one-way street we have.

(Mr. O'Dunne) I would like to object to this on the ground it would be more properly direct examination.

(The Court) I think that is true. I will sustain the objection.

Q. And it was contemplated that there would be further restrictions upon the parking, the use of the neighborhood residents in the parking of their cars and the use of the street?

(Question objected to.)

(The Court) I think that is the same situation, Mr. Houston.

(Mr. Houston) Your Honor will allow me an exception.

(The Court) I will give you an exception.

Q. And you contemplated such a heavy flow of traffic at Druid Hill Avenue that could not—there would be a bottle neck at the end of Druid Hill Avenue, did you not?

(Question objected to.)

(The Court) That might be more pertinent to the question of the selection of Druid Hill Avenue and Madison Avenue and McCulloh. Overrule the objection.

(Question read by the reporter.)

A. There is a bottle neck where any one-way street leads into a two way street and that problem is being given serious consideration now and has been for the past three years.

Q. As a matter of fact, you have moved the outlet down towards Madison Avenue, have you not? A. Towards Madison Avenue?

Q. Yes. A. No.

(The Court) Why let it still remain at Eutaw Street?

(The Witness) Druid Hill Avenue dead ends at Eutaw Street. We are condemning property across the parking lot and plan to connect Druid Hill Avenue with Centre Street at the Greyhound bus station and designate Centre Street one-way eastbound and Monument one-way westbound to hook into Druid Hill Avenue, which would give a perfect flow. That is shown on this map. This would be one-way westbound on Madison, from Cathedral west and running into McCulloh. Druid Hill Avenue would go on down into Eutaw and cut across the lot here right into Centre Street to St. Paul.

Q. But the existing outlet of Druid Hill Avenue would have to be changed? A. That is the problem.

Q. In order to take care of the increased volume of traffic which you anticipated would be brought on Druid Hill Avenue by its designation as a one-way street? A. That is correct.

(The Court) Do you have a copy of the report of the Planning Commission who recommended these changes?

(The Witness) I think they got that from Lang when they took his deposition.

(The Court) You don't have it.

(The Witness) No, sir.

(Testimony of the witness concluded.)

INSPECTOR BERNARD J. SCHMIDT,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Houston:

Q. You are a police inspector of the Police Department? A. That is right.

Q. And you have been inspector of the Police Department for how long, Mr. Schmidt? A. June, 1948.

Q. Prior to that you were what? A. Captain.

Q. In charge of what? A. Traffic Engineering Bureau.

Q. You have been in charge of that bureau how long? A. Since August, 1946.

Q. Did your department make any report to any city officer or any city department or commission prior to 1946 concerning the use of Druid Hill Avenue or McCulloh Street as one-way streets? A. Prior to 1946?

Q. Yes. A. Not to my knowledge.

Q. Was your office called in regarding the conversion of Druid Hill Avenue as a dual highway with Druid Hill Park? A. Not during the planning of it. We were called in after the construction had begun.

Q. The decision had been made when you were first called in to deal with problems of traffic on the proposed highway? A. Yes.

Q. Was your department called in by any City Board concerning the designation of McCulloh Street and Druid Hill Avenue as one-way streets? A. Yes, sir.

Q. What department? A. The Department of Public Works and the City Planning Commission.

Q. When was that? A. I judge that was during the summer or fall of 1947.

Q. And that was after the work had started on the proposed dual highway? A. Just about the time of the beginning of that work or after.

Q. And the purpose of calling you in at that time was to study the flow of traffic on Druid Hill Avenue and McCulloh Street into the dual highway, was it not? A. No. I would say that the purpose of calling us in at that time was to get our opinion on the feasibility of determining whether or not McCulloh Street and Druid Hill Avenue should be designated as one-way thoroughfares.

Q. But that was after the city had been committed to the dual highway and construction had begun? A. I presume so.

Q. That was also in connection with the proposed plan of the Transit Company to change its traffic on Druid Hill Avenue from fixed wheel to free wheel traffic, was it not? A. That was in conjunction with the designation of those two streets as one-way thoroughfares.

Q. Is truck traffic permitted on the dual highway through Druid Hill Park? A. As far as I know, it is generally prohibited through all the city parks. Specifically on that highway, I think yes.

Q. It is prohibited? A. Within the park. That is a Park Board regulation.

Q. It is not prohibited however, on Druid Hill Avenue or McCulloh Street? A. That is correct.

Q. What happens to the truck traffic which goes up or down Druid Hill Avenue and McCulloh Street and which on a normal flow of traffic would be fed into this dual highway? A. What direction?

Q. Let us take it first coming from the city, moving toward the park. What becomes of that traffic? A. Where would they be destined for?

Q. Suppose they were destined for some place that would normally use this proposed dual highway through the park we have been talking about, and let us say that truck traffic is moving up either Druid Hill Avenue or McCulloh Street, and if it were a private automobile, would go into and on that dual highway. The question is, since it is truck traffic, where does it go instead of going on the dual highway?

(Question objected to; objection overruled.)

A. That depends on where it is destined to. Will you make your question more specific?

-(The Court) Suppose it were destined for Westminster or Pittsburgh or in that direction, how would it get off of McCulloh Street or Druid Hill Avenue going north. It would go up McCulloh Street, wouldn't it?

(The witness) Yes, sir.

(The Court) How would it get off McCulloh Street?

(The Witness) Say it was destined to Reisterstown Road and was northbound on McCulloh Street, the most

logical route for the truck traffic would be northbound on McCulloh Street to North Avenue, west on North Avenue to Reisterstown Road.

Q. Suppose you were coming down from the northwest section of the city, what would it do, where would it go?
A. Reisterstown Road.

Q. And you were coming to the downtown section and suppose it were a private pleasure car, private automobile which would use that dual highway, what would the truck use coming from the same point instead of the dual highway?

(Question objected to; objection overruled.)

A. The truck would have a multiple choice of different streets. The most logical route would be southbound on Reisterstown Road to Fulton Avenue, east on Fulton Avenue to Druid Hill Avenue, south on Druid Hill Avenue. As I say, he would have a multiple choice of other streets in that area.

Q. Why is truck traffic barred from Druid Hill Park?
A. I can't answer that, that is a regulation of the Park Board.

(The Court) It goes back to the horse and buggy days.

Q. You have no connection with the designation of the nature of traffic moving through the park? A. No.

Q. Do you have any connection with the designation of traffic moving in places within the city of Baltimore?
A. Yes, within the city of Baltimore. With regard to what?

Q. Truck traffic? A. We have no authority to designate truck traffic in the city.

Q. Did you make a study of the hazards to children which would be met in case the Druid Hill Avenue and McCulloh Street were designated as one-way streets?

A. No, no particular study, and I would like to explain that answer, your Honor, if I may.

(The Court) Go right ahead.

A. Because the designation of a one-way street normally reduces the hazards to pedestrians.

Q. You have had actual experience with some of the streets in Baltimore which have been designated as one-way streets? A. Yes, sir.

Q. Isn't it true that the uniform experience in Baltimore has been that the designation of one-way streets has lessened the accidents on the streets? A. In some instances yes and in other instances no.

Q. So that your statement has to be qualified that the designation of the street as a one-way street lessens traffic hazards. A. I said normally. There are other factors to take into consideration.

(The Court) You would have to test that by the number of cars operating on the street, wouldn't you?

(The Witness) Yes, sir, qualify it.

(The Court) If you took the number of cars and divided it in proportion to the accidents, perhaps on St. Paul Street now you might have more accidents than you had two or three years ago; but, on the other hand, maybe your volume on St. Paul Street is three or four times what it was.

(The Witness) Yes, sir. The potentialities are greater with the increase in traffic.

(The Court) You would have to take the percentage increase there on the number of cars.

(The Witness) Yes.

Q. You are not saying, therefore, that the accident count is less on the one-way streets? A. Numerically, no. As I say, it would depend on certain other factors.

Q. What has been the common experience as to the actual count numerically in the number of accidents on the one-way street, has it increased or decreased? A. I think Mr. Murphy has those figures.

Q. Your office made no specific or special study of the hazards to the children you testified, that is correct, is it not? A. No, that is not correct. I don't understand your statement.

Q. When you were called upon to make your recommendations concerning the designation of Druid Hill Avenue and McCulloh Street as one-way streets, you made no study as to the hazards to the school children as the result of the designation of those streets as one-way streets? A. We make studies, but a general study affecting the whole class of people, not particularly school children.

Q. You did, however, make a specific study as to the traffic flow, that is, vehicular traffic flow on those streets, did you not? A. Yes.

Q. As the result of that study, you decided you would have to enlarge the outlet of the traffic on Druid Hill Avenue? A. We decided to assure a more successful plan of one-way operation that there should be an additional outlet provided at the southern end of Druid Hill Avenue.

Q. Where, at Eutaw Street? A. At Eutaw Street.

Q. What has been your experience as to the rate of speed on one-way streets, vehicular speed on one-way streets? Do the big vehicles move faster on one-way streets than on two way streets?

(Question objected to; objection overruled.)

A. I will have to explain this. If you mean the specific rate of speed, that is not increased by the mere designation of a one-way street; but traffic in general is expedited through one-way streets.

Q. Is it expedited by the individual vehicle moving faster, at a higher speed? A. No, I would not say at a higher speed. I would say at a more uniform speed, and utilizing the complete capacity of a particular street.

Q. Is it a fact that the vehicles on the one-way streets in Baltimore move faster, as a general proposition, that the rate of flow of traffic is faster, at a faster speed? A. It is moved more efficiently. Again, I say, not at a specific rate of speed. It is moved more efficiently.

Q. And that means a larger volume of traffic? A. Yes, sir. That is based upon past experience.

Q. And it also means a greater interference with cross traffic, does it not? A. No, sir, not necessarily.

Q. It means, however, limiting cross traffic in favor of the traffic on one-way streets, does it not? A. No, that is not true either. Not over a two-way street. Perhaps I don't understand your question.

Q. The purpose of designating Druid Hill Avenue and McCulloh Street as one-way streets was to take care of the volume of vehicular traffic flowing from the outskirts of downtown to the business center and vice versa, wasn't it? A. That is one of the reasons, yes, sir. To make better use of the existing facilities.

Q. So that you could get a larger volume of that traffic down town in a shorter period of time with less friction? A. That is not true. To get it down town more efficiently. A larger volume, particularly on McCulloh Street, is problematical.

Q. Do you know whether any statement has been made in your department, meaning by that, the Police Department, the official statement has been made in the Police Department that the conversion of the one-way operation would result in a peak hour of volume of traffic by ninety per cent.? A. That may have been made by someone other than myself. I don't think it was made by me

personally. Perhaps some engineering study was referred to. I would refer that question to Mr. Murphy.

Q. But it would very materially increase the volume of traffic? A. I say that is problematical. I say that because at the present time McCulloh Street is a through boulevard highway. As to what the increase on McCulloh Street would be, I don't know. But I feel certain that there would be an increase on Druid Hill Avenue.

Q. What was the experience on St. Paul and Calvert Streets?

(Question objected to.)

Q. I mean a comparable experience.

(The Court) I will let him answer. Give you an exception.

A. Mr. Murphy has some figures on that, your Honor. Do you want to refer to those figures or do you want my opinion?

Q. I want your opinion. A. In my opinion, there has been an increase.

Q. A very substantial increase? A. In some parts of St. Paul and Calvert Streets.

Q. And there has been a very substantial increase in the speed at which traffic is moved on St. Paul Street and Calvert Street, has there not? A. No, sir.

Q. Do you recommend traffic regulations concerning parking and stopping on streets? A. Yes, sir.

Q. What recommendations have you made concerning parking on Druid Hill Avenue and McCulloh Street, if and when the act goes into operation, as one-way streets? A. Originally we recommended that if and when Druid Hill and McCulloh were designated as one-way streets that the same regulations as are in effect on St. Paul and Calvert Streets be adopted. Briefly, on Druid Hill Avenue that would mean the southbound

street in the morning, there would be no parking, loading or unloading between 7:30 and 10 on both sides of the street. Conversely, on McCulloh Street, the evening rush hour, being a northbound street, the original recommendation was that parking, loading and unloading would be prohibited on both sides between the hours of four and six. Thereafter at the hearing held by the City Council, there was a compromise with the Police Department agreed to, although by no means were we convinced that it was the thing to do, but, nevertheless, we agreed that if and when the streets were inaugurated as one-way thoroughfares, we would limit the parking during the morning and evening rush hours on those streets to only one side of the street.

(The Court) That means you would make that, a three lane proposition instead of four?

(The Witness) Yes, sir.

Q. Did your department address any written communication to the City Council or to the Committee on Jails and Police concerning this ordinance? A. Yes, sir, we did.

Q. Do you have that? A. Yes (handing paper to counsel).

Q. Is this your complete file? A. Yes, sir.

Q. Will you tell us which communication was addressed to the City Council? A. You understand, Mr. Houston, that correspondence within the police department is through the Chief Inspector's office and the Commissioner's office. Starting off with this letter here of December 15th, that was our recommendation to the Chief Inspector that the ordinance be introduced. Thereafter, on February 12th, 1948, proposed Ordinance No. 378, which designated those streets, and which apparently the chief inspector recommended. Thereafter, on March 9th, 1948, the Highways Engineer requested an opinion of the Police Department of the desirability of

passing that ordinance and that was our answer on March 10th, 1948.

(Mr. Houston) I will ask that this be marked as Plaintiffs' Exhibit No. 3.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 3.)

Q. Mr. Schmidt, I will ask you to take Plaintiffs' Exhibit No. 3, and tell us whether or not that recommendation in there does not concern the control of vehicular traffic? A. No, sir.

Q. Will you point out the recommendations which concern control of pedestrian traffic? A. That is a general recommendation, considering both vehicular and pedestrian.

Q. Will you point out there where there is anything which concerns the control of pedestrian traffic? A. It is not necessary to point it out, Mr. Houston, that is part of the general recommendation. It is not the policy to say particular things concerning pedestrians or vehicular traffic.

Q. Will you point out anything in there which concerns the safety, which relates to the safety of pedestrian traffic in your regulations governing recommendations for traffic control on Druid Hill Avenue and McCulloh Street as one-way streets? A. The only way I can answer that, your Honor, is that it was a general recommendation on the part of the department. I cannot point particularly to pedestrian or vehicular.

Q. Do you mean you cannot point to vehicular in those recommendations? A. Yes, I can point to vehicular, but you are talking about safety hazards.

Q. I am asking you is there anything in there in your proposed recommendations concerning control of vehicular traffic which relates to the use of the intersections or

the streets by pedestrians? A. I don't think I understand your question.

(The Court) I think you have to make your question a little more specific. I think I know what his difficulty is, but try to make your question a little more specific for him.

Q. This letter of December 15th, 1947, is report from C.O. Traffic Engineering Bureau to the Chief Inspector, subject Druid Hill Avenue and McCulloh Street as one-way projects. That is true, is it not? A. Yes, sir.

Q. In there you deal with the matter of the flow of traffic, the direction of the flow of traffic? A. Yes.

Q. You also deal with the matter of parking and standing? A. Yes.

Q. You deal with violations of the parking and standing and the flow of traffic movement? A. Yes, sir.

Q. I ask you was there anything in that report which gave consideration to pedestrians, either by way of setting up control intersections or anything else? A. The reason that this report—

Q. Just answer yes or no, first. A. I can't answer that question yes or no.

(The Court) Let him answer it in his own way, so long as it is responsive.

A. This recommendation is in this form because to do the things recommended here requires legislation. Now, conversely, for the safety of pedestrians, which is an integral part of this whole proposal, it is not necessary to have any legislation. Therefore, if I am answering your question, it is worded in this manner because legislation was needed for these particular things.

Q. Do you have a written report in your department which is contemporaneous or preceding that of December 15th, 1947, which deals with the matter of pedestrian

traffic and control of the traffic on the streets to provide safety for pedestrian traffic? A. I think there are some reports on that. Yes. Here is a report dated January 6th, 1948.

Q. May I see that?

(Witness handed paper to counsel.)

(Mr. Houston) May we ask that this be introduced as Plaintiffs' Exhibit No. 4.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 4.)

Q. Mr. Schmidt, during the school sessions the children will be usually crossing intersections on the way to school during the peak of the down town morning traffic movement, wouldn't they? A. That is presently true, Mr. Houston.

Q. It has always been true, hasn't it? A. That's right.

Q. Do you know whether there are any schools in this area which would be affected by the designation of Druid Hill Avenue and McCulloh Street as one-way streets which have afternoon platoon sessions? A. Not with platoon sessions, no, I would not be familiar with that.

Q. Did you make any inquiry in the matter of your study of traffic conditions, pedestrian and traffic hazards, as to whether there were any such schools having afternoon platoon sessions which would let the children out during the time that you would have—during the peak traffic flow up town, away from the city, in the afternoon? A. We did not make any particular studies because the schools in that vicinity now cross McCulloh Street, which is a through boulevard highway, and which carries a very heavy volume of traffic, and we feel, as I have stated previously, that the one-way operation is a safer operation than the two way operation.

Q. The answer, then, is that you made no such study?

A. Because of the reason I have just stated.

(Mr. Houston) Your witness.

CROSS-EXAMINATION

By Mr. O'Dunne:

Q. Mr. Schmidt, when a street is made a one-way street, are traffic regulations governing safety or speed immediately suspended? A. No, sir, they remain in full force and effect.

Q. You referred to the fact that one-way streets decrease certain hazards. Would you explain to the Court the way in which that is brought about by making the street one-way? A. I think Mr. Murphy has some studies on that, but if I may give an illustration—

Q. Just give us an illustration. A. For example, Calvert and Lexington Streets here, Calvert Street is a one-way street southbound and Lexington Street is a one-way street westbound. When the traffic is stopped for southbound on Calvert Street at Lexington, pedestrians may cross Calvert Street without interruption from turning vehicles.

Q. Calvert Street on what side of Lexington? A. On the north side of Lexington. If that were a two-way street you would have conflict with turning vehicles turning into that street. So a pedestrian may cross a one-way street without turning, in other words, without turning interference from vehicular traffic. In addition to that, I might say that is also true of vehicular traffic in that it reduces the possible points of conflict between the various movements of the vehicles.

Q. Do you know the points of origin and destination of the traffic presently using McCulloh Street? A. Not to any degree of certainty. I can estimate it generally. At the present time it is around the section of Liberty Heights, Park Heights, Reisterstown Road and over into Green Spring Valley. That's the origin in the morning, and destined for either West Baltimore or the central business district or other parts of the city.

Q. It is said in the bill of complaint in this case that prior to March 18th, 1948, the vehicular traffic on both McCulloh Street and Druid Hill Avenue was local traffic of persons resident in or visiting the neighborhood. From your experience, can you tell me whether that statement is true or not? A. I don't agree with that statement.

Q. Will you tell us why you don't agree with it? A. Because those streets then and now are used by the origin and destination which I have just quoted.

Q. You mentioned Ordinance No. 378. Is there any relationship between that Ordinance and Ordinance No. 169? A. Yes, Ordinance 378, in so far as I am able to ascertain, was the first number and after that ordinance was enacted into law, it was then given a permanent number and made Ordinance No. 169.

Q. When you limit the parking on only one side of a one-way street as opposed to both sides, what effect will that have on the volume of the traffic using this street? A. It will have the effect of reducing the potential capacity of that street to three lanes instead of four lanes.

(Mr. O'Dunne) That is all.

(Mr. Houston) No further questions.

(The Court) Tell me this, Inspector. What are you going to do with the truck traffic up there in the vicinity of Druid Hill Park? These trucks cannot go through the park, as I understand it, unless you get a special ordinance through.

(The Witness) Yes, sir.

(The Court) Won't they continue to go up to Druid Hill Park and then have to find their way out through some of the side streets or something of the kind?

(The Witness) No, sir. We would post directory signs. For example at North Avenue at McCulloh, which would direct truck traffic across North Avenue. However, that would only be advisory because they would have the

choice of going up to Whitelock Street or they would have the choice of going up to Cloverdale Road and continue back through Francis Street to Reisterstown. It would be advisory only.

REDIRECT EXAMINATION

By Mr. Houston:

Q. Just one question. There is no limitation on the size of the trucks which would be permitted to use Druid Hill Avenue and McCulloh Street, is there? A. We have no authority as to limitation of size of vehicles on the city streets.

Q. Who has that authority? A. No one at the present time. I may answer that more directly. It would require legislation.

(Testimony of the witness concluded.)

CHARLES J. MURPHY,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Houston:

Q. Mr. Murphy, what is your position? A. Traffic Engineer of the Baltimore Police Department.

Q. You have been that how long? A. Since March, 1947.

Q. Did you have any official connection or any official reason to make a study of traffic prior to 1947? A. No, I did not.

Q. Do you have any record of the traffic counts on Franklin and Mulberry, St. Paul and Calvert, prior to

the times when they were designated as one-way streets?
A. No, I don't have that information.

Q. Do you have the information concerning Calvert and St. Paul Streets? A. Yes, I have those.

Q. Do you have it written? A. Yes, I do.

Q. Will you let us have those?

(Papers handed to counsel by witness.)

(Mr. O'Dunne) To be consistent, your Honor, I would like to object to this on the ground it is not relevant.

(The Court) Give you an exception.

A. This is the Calvert Street count, this is the St. Paul Street count (indicating).

Q. May I just ask you a question. I see one is marked, apparently it was introduced in the deposition. A. Yes.

Q. Is this the accompanying one? A. That's right.

(Mr. Houston) I ask that these be marked as Plaintiffs' Exhibits 5 and 6.

(Papers referred to were received in evidence and marked Plaintiffs' Exhibit 5 and Plaintiffs' Exhibit 6, respectively.)

Q. Can you translate these two charts into terms of figures for us or in terms of percentages? A. Yes. These two sheets show the before and after volume counts on Calvert and St. Paul Streets on a twenty-four hour basis. Of course, the volumes vary from point to point along each street, and it raises—I will read off some of the volumes at various points before the study. St. Paul Street, south of Fayette, for example, there were 15,818 vehicles over a twenty-four hour period prior to the designation of that street as a one-way street. After designation as a one-way street, there were 16,944. I picked a portion of the street which is not one way inadvertently here. Take Mount Royal Avenue, south of

Mount Royal Avenue, on St. Paul, it was 14,999 before one-way operation and 18,259 after, on a twenty-four hour basis.

(The Court) You are now talking about St. Paul Street.

(The Witness) I am now talking about St. Paul Street; yes, sir.

(The Court) To put it a short way, the increase runs from twenty to fifty per cent. over what it was. In one place it is fifty per cent., isn't it?

(The Witness) In one place.

(The Court) And in another place it runs around twenty per cent.

(The Witness) That is correct. Here we have a one hundred per cent. increase below 29th Street. On Calvert Street the same thing implies, the same interpretation of the data.

Q. And that increase is in the residential area? A. On St. Paul Street there is an increase all along the street.

Q. But it is heaviest in the residential portion? A. That is correct. On St. Paul Street, that is.

Q. I will ask you if you have an accident survey on St. Paul Street before and after? A. Yes, I have. Is it in order for me to make a remark, your Honor?

(The Court) He just asked you if you have the survey. Do you have it?

(The Witness) Yes.

(Mr. Houston) I want to introduce this and have it marked as an exhibit.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 7.)

(Mr. Houston) If your Honor please, I would like to call your Honor's attention particularly to the question

of accidents involving turning movements. I think Mr. Schmidt testified as to that, and the increase is shown as an increase of 221% after designation.

Q. As a traffic engineer, you are concerned with traffic flow, are you not? A. We are concerned with the movement of both vehicles and pedestrians.

Q. You are concerned with the movements of the motor vehicles and you have made a study, have you not, of the use of this proposed dual highway through Druid Hill Park in connection with Druid Hill Avenue and McCulloh Street? A. We have made certain studies of the comprehensive plan.

Q. Was your office called into consultation on the decision to close the dual highway through Druid Hill Park while Druid Hill Avenue and McCulloh Street are being used as two way traffic streets? A. I personally was not consulted about that, to my knowledge. However, Inspector Schmidt, may have been in consultation with the other authorities.

Q. Is it within the duty of your department to estimate anticipated increase in traffic flow in the change of streets from one-way to two ways and two ways to one-way? A. My job primarily, I would say, would be to devise a system of control along those streets to afford the greatest measure of safety to the people using those streets and to expedite the flow of traffic on those streets. The proposed increase, while we recognized there would be an increase, we were not so much concerned with the magnitude of it, but rather whether we could effectively control it.

Q. Was your office called into consultation in making the proposed estimates of additional signals at a cost of \$19,991.14 which appears in the report of January 6th, 1948? A. That is right.

Q. To justify an additional expenditure of approximately \$20,000 for additional signals, you had to anticipate a considerable increase in the volume of vehicular

traffic, did you not? A. Not necessarily. I don't understand what you mean by "considerable increase".

Q. Let me put it this way: What anticipated increase in the volume of vehicular traffic on those two streets justified your recommended expenditure of nearly \$20,000 for new signals.

(Mr. O'Dunne) I object. He did not say it was an increase of traffic to justify it.

(The Court) I understood him to say he anticipated an increase, but the question was not how much the increase was but how effectively they could control it.

(The Witness) That is right, Judge.

(The Court) Your question is whether the increase was sufficient to justify the expenditure of \$20,000.

(Mr. Houston) That is right.

(The Court) I think the question is all right. Overruled. A. The decision was made that the streets were to be proposed as one-way streets. That was to be considered by the City Council and acted upon. We had to assume that the streets that were going to be designated one-way streets and had to plan for the control thereof. After they were so designated, then it was our function to execute that plan. After the streets were made one-way it was necessary for us to locate the signals and signs regardless of the increase on those streets.

Q. What were the conditions, then, which justified an expenditure of \$20,000? What change from a two-way street to a one-way street was there if it was not volume of traffic? A. I can explain that. A one-way street is not inherently better than a two-way street because traffic travels on it only in one direction. But because of effective signal control and proper signing, you can make traffic travel in platoons, which provides gaps in the traffic for cross traffic and also for pedestrians. You cannot get that characteristic of traffic flow unless you

have your traffic signals properly placed along the arteries. If you have it properly signalized, the vehicular cross traffic and pedestrians have an opportunity to cross safely not only at signalized intersections but at unsignalized intersections.

Q. But moving the traffic into compact platoons anticipates an increased volume, isn't that true? A. You get an increased volume because you are using the street more efficiently. You cannot draw the conclusion from that that it is more hazardous or that the street is in use more than it was previously.

Q. Having given us this accident survey of St. Paul Street, showing an increase in the number of accidents after the designation as a one-way street, let me ask you if you have any study which shows a contrary experience where there has been an increase in the flow of traffic over the street after the designation. I say when there has been an increase in the volume of traffic? A. Of course, it isn't simply a matter of so many accidents you have had and the total volume of traffic over a twenty-four hour period. There is a time element in traffic and we are concerned in moving a given number of specified vehicles at a given time, say at evening peak. I can show you accident data on Calvert Street, where we have had a decrease, and indicates we have had a considerable increase in volume during the peak hour.

(The Court) Gentlemen, suppose we go ahead after lunch. Take a recess now until 1:30 p. m.

(Recess from 12:30 p. m. until 1:30 p. m.)

CHARLES J. MURPHY,

whose examination was suspended for the purpose of taking the noon recess, resumed for

DIRECT EXAMINATION (Continued)

By Mr. Houston:

Q. Mr. Murphy, as Traffic Engineer, you are concerned with the control of traffic both vehicular and pedestrian?

A. That is correct.

Q. Total traffic on the street? A. That is correct.

Q. Did you make a study of the density of the area, population density of the area? A. No.

Q. Do you know whether the area there is of greater density in population than most other sections of Baltimore? A. I don't know that as the result of studies that we have made for that particular purpose, but I suspect that it is densely populated.

Q. The presence of young children on the street is an element in controlling traffic, is it not? A. It is one of the things that must be considered.

Q. Did you make any study of the recreation areas available in the neighborhood on the question as to the presence of young children on the street after school hours or during vacation time? A. I personally did not.

Q. Do you know whether any such study was made in connection with your recommendations? A. That, of course, is primarily a responsibility of the department of Planning. We made our recommendations as they made theirs.

Q. Did you have such information available to you at the time you made your recommendations January 6th, 1948? A. I don't recall specifically a report we had in hand, but that was one of the things we considered of course.

Q. What is the status of the recreational areas in that particular neighborhood? A. I am not able to recall off-hand the particular layout of recreational facilities in

that area, though I may have been cognizant of that at some later date.

Q. Did you have any conference with principals of schools or other educational authorities as to whether your plan adequately provided for the safety of children? A. To my knowledge, no.

Q. On a one-way street, let us say, going north toward the park and a child is crossing west to east, with a one-way street traffic is much closer to a child moving north on the west curb than it would be on a two-way street, is it not? A. No.

Q. Why? A. Because you have southbound traffic on that street.

Q. I am talking about a one-way street. You have traffic only one way and I am talking about the matter of one-way directional traffic, where the traffic uses the entire street. A. Yes.

Q. And traffic making a lefthand turn off a one-way street into an intersection, let us say going north, and making a lefthand turn to go west, it is much nearer a child on the west side of the street than it would be on a two-way street, isn't it? A. The northbound traffic is closer to the child, but on a two-way street you still have southbound traffic.

(Mr. Houston) That is all.

CROSS-EXAMINATION

By Mr. O'Dunne:

Q. Mr. Murphy, with respect to one-way streets, have you in your experience as a traffic engineer, acquainted yourself with the experience that other cities have had with respect to one-way streets, in so far as traffic loads are concerned? A. Yes, I have.

Q. Will you tell the Court what the experience in some cities has been with one-way streets? A. In many cities

they have had one-way streets for years. Philadelphia is one, Buffalo another, Detroit is another. In each case they found where they got an increase in the general volume of traffic, as much as ninety to one hundred per cent. during certain periods of day almost without exception they got a decrease of accidents of almost fifty per cent.

(The Court) you mean with reference to the number of vehicles using the street?

(The Witness) That is the absolute number for the accidents. If you put in an exposure factor, of course it looks much better. But this is on the basis of purely the number of accidents.

(The Court) How do you account for the fact that one-way traffic streets like St. Paul and Calvert Streets show an increase?

(The Witness) There are a number of reasons. Of course, in the case of Calvert Street, you have a 17% decrease, and if you consider Calvert and St. Paul as one street in fact, because it acts as a dual highway, so you can consider it as one artery, the pair of them together, and if you summarize the accidents on those two streets you have practically no change in the accident rate. Of course, you can ask why we don't have a pronounced decrease, and I think that can be attributed to a number of things. In the first place, the sample we are considering actually is comparatively small, it is only a one year sample, and these other cities have had an opportunity to arrive at an average rate, they have had the initial period during which you have many accidents over with, and they got settled down. Then, too, on St. Paul Street, you are operating under the handicap of abnormal times. Everyone has been attracted to St. Paul Street and it is carrying more than it should. That is one reason why we are anxious to get Druid Hill and McCulloh Street. So you have an abnormal load on St. Paul Street; and, further, on St. Paul Street, you have

some grade conditions that cause accidents. You have the heavy grade below Monument Street and you have a bad grade at Chase.

(The Court) It would seem to me you get excessive volume of traffic on Calvert and St. Paul Streets, you would get a far better result on two parallel streets, Maryland Avenue and Cathedral, than you would get by going up McCulloh and making a one-way street out of that.

(The Witness) Of course, there was a very comprehensive study made, the Maryland transportation study, which showed the origin and destination and relationships within the city, where people start from and where they want to go. On the basis of that information and the theoretical capacity of the street surveys available, it was determined not only do we need McCulloh and Druid Hill Avenue to take care of the northwest flow, but we need both Charles, St. Paul and Calvert and Cathedral to make it flow north. Then after we get those streets, there is still going to be traffic congestion because of the time element. Everybody seems to want to get home by five or five-fifteen and we try to relieve the congestion and hazards that exist.

(The Court) There is no statute pending, so far as you know, against Maryland Avenue and Charles Street, is there?

(The Witness) No, there is not, but there are many agencies involved there. For instance, the police department could very well hold up the conversion of this street until we put in the signals and the signs. That isn't the case, but it could be.

(The Court) What is the case?

(The Witness) My understanding is that the 25 line must be converted to free wheel operation or at least rerouted to Maryland Avenue above Chase Street.

(The Court) Don't you have to reroute some traffic on Druid Hill Avenue to run street cars going up Druid Hill Avenue?

(The Witness) No, sir.

(The Court) They have been taken off?

(The Witness) They have been taken off.

(The Court) How is it they could get those off and could not get the 25 line off?

(The Witness) Your Honor, I can't answer that question. That is a matter of the timing of the execution of these plans.

Q. (By Mr. O'Dunne) Actually Druid Hill Avenue and McCulloh Street are designed to take care of traffic destined to different sections than the traffic customarily using Calvert and St. Paul Streets, are they not? A. They should use St. Paul and Calvert. The point is that some of this traffic that originated in the northwest section now goes down Druid Hill Park to Mount Royal and goes across Mount Royal, then feeds south on either Cathedral, Charles or Fallsway. That creates a bottle neck at North Avenue, on your north and southbound streets because you are controlled by traffic signals and you must divide the green time of those intersections to take care of both the north-south flow and the cross flow. Right now we have congestion on St. Paul Street because we cannot open up the signal system. If you could divert the traffic that now goes across there, if you could bring that down Druid Hill Avenue and McCulloh and let those streets serve the areas between the two served by the northwest area to the down town area, then you could relieve North Avenue and give more time to St. Paul and Cathedral Streets, when they are converted, then you will begin to have some sort of a traffic plan that may function properly.

(The Court) The reason I ask these questions is this: Wasn't the first street plan in Baltimore that was in-

volved for one-way streets what they called the number 5 plan? Wasn't that the number 5 plan of the Baltimore Transit Company which involved the removal of street cars off Charles Street and Maryland Avenue and off Calvert Street? Wasn't that the first bit of planning that was done except possibly for the Franklin Street-Mulberry Street one-way thoroughfares?

(The Witness) Of course, I hesitate to answer your question—

(The Court) Was that before your time here?

(The Witness) That was before my time. I think Mr. Holland has all of that in connection with the history of the cases.

Q. Did you make a study, Mr. Murphy, with respect to the number of accidents on Calvert Street before it was made one-way and after it was made one-way? A. Yes, I did.

Q. Did you give such a study to Mr. Houston, the results of such a study? A. I did.

Q. At any time? A. Yes.

(The Court) We have a diagram in evidence that shows that, I thought.

(Mr. O'Dunne) That is what I was looking for.

(The Witness) That is the only one I gave to anyone today, Mr. O'Dunne.

Q. Do you have one now that shows the number of accidents occurring on Calvert Street before it was made one-way as compared with the number after it was made one-way? A. Yes, I have.

Q. I hand you a paper which you have just handed me, and ask you if you can identify this? A. This is a tabulation of the accident experience on Calvert Street before and after the conversion to one-way operation.

(Mr. O'Dunne) I would like at this point to offer this document in evidence that the witness just identified and ask that it be marked Defendant's Exhibit 3.

(Paper referred to offered and received in evidence as Defendant's Exhibit 3.)

Q. At the present time is McCulloh Street carrying its full capacity of traffic flow? A. I would say that it is. We made certain volume counts on McCulloh Street and Druid Hill Avenue both and the results of those studies caused us great concern not only for the hazards that existed there to vehicular traffic but also to school children. For example, between Robert Street and Presstman Street on McCulloh Street there is a peak of traffic flow, peak hour flow of 903 vehicles. That occurred in the morning between the hours of 8 a. m. and 9 a. m. That is just the southbound flow. If we were to consider that volume of vehicles in relation to the street capacity, which we did, we had to assume that some of those cars were traveling on the wrong side of the street because a two-way street just won't carry 450 cars per lane, particularly when you have parking conditions that now exist on McCulloh Street. That means that some of these cars are traveling over the center line which is extremely hazardous not only to cars traveling in the opposite direction but to pedestrians also. In addition to that, of course, you had 227 vehicles during that same period traveling northbound. Our concern was with the pedestrian traffic and was simply this. On a two-way street you have practically a constant stream of traffic when you have volumes of that magnitude. There is no gap in traffic because you have the southbound stream traveling down McCulloh Street, you have the northbound stream traveling up McCulloh Street, and there is just no break. When that street is converted to one-way operation the vehicles will be bunched into platoons and there will be a definite break between platoons of traffic as they proceed up McCulloh Street.

Q. Based on those figures, how would the safety conditions of McCulloh Street at present compare with those you expect to find on McCulloh Street when McCulloh Street is made a one-way street, according to the provisions of the ordinance we are considering here? A. We feel very definitely that a one-way street is not only a better system because it expedites vehicular traffic, but also, and equally important, because it gives the pedestrian a break. As Inspector Schmidt stated, a pedestrian can cross Calvert Street on the north side of Lexington without any conflict as long as the vehicles and he obey the traffic signal. If you try to cross at Howard and Lexington, you want to get from the east side of Howard to the west side, you have righthand turns interrupting the pedestrian street and creating a hazard. Even at the unsignalized intersections on a one-way street, you have a definite break in traffic. In the first place, you only have to look in one direction. In the second place, of course, there is a definite gap for pedestrians to get across. We feel if and when that street is converted to one-way operation, both from a vehicular and pedestrian standpoint it will be a safer operation.

Q. Can you tell us anything with respect to what is contemplated in the way of traffic controls and safety devices on Druid Hill Avenue and McCulloh Street? A. Yes. Of course, the policy of the police department is to assign a traffic officer to all school crossings, in so far as the number of men they have available permits them to do so; at primary crossings there is usually an officer. In addition to that, new signals are proposed because they have to be prepared and considerable preliminary work done to install traffic signals at various locations along those streets.

Q. Have you any chart showing the contemplated installation of those signals? A. Yes, I have.

Q. The paper which you have just handed me I will hand back to you and ask you if you can identify it? A.

This is a layout of the existing and proposed signal layout for Druid Hill Avenue and McCulloh Street between Whitelock Street and Eutaw Street.

Q. It is a legend sheet showing which are existing and which are proposed? A. The proposed are shown in green and the existing in red.

(Mr. Houston) When was this made?

(The Witness) That particular plat was just drawn up recently from a rough copy we had in the office.

(Mr. Houston) Was this made since your deposition was taken?

(The Witness) That particular layout was, yes.

(Mr. O'Dunne) I would like to offer this in evidence.

(Paper referred to offered and received in evidence as Defendant's Exhibit 4.)

(The Court) I notice a good many, seven signals on Druid Hill Avenue.

(The Witness) Yes, your Honor.

(The Court) And those signals cost about \$2,000 apiece, don't they, something like that?

(The Witness) Roughly.

(The Court) Have you ever given any consideration to the system like they use in New York City, for instance, where you stop on a signal at an intersection?

(The Witness) Yes, sir. We have observed that many times.

(The Court) Would there be any reason why that could not be used on a street like this?

(The Witness) We don't feel that system is as efficient as the one we propose to use there and as the one we now have in operation on our one-way streets.

(The Court) When you get a progressive flow of traffic, you move the traffic along at a continuous rate.

(The Witness) Yes, sir, continuously. The new York system is the result—the signal installation was put in about thirty years ago, whereby each signal is not controlled by a separate control but remotely and they all go green at the same time. You have to stop at the nearest intersection to let cross traffic through.

(The Court) They certainly save a good many signals that way, don't they?

(The Witness) Of course, all they save there is the cost of control, which is about ten per cent. less than the cost of installation, but still they have to be installed, that being a good part of the expense. We feel ten per cent. of the cost of installation is a pretty good investment, on Calvert Street, for example, to be able to travel thirty-six blocks without stopping. You cannot do that in New York.

(The Court) I can understand why you need so many signals on the one-way streets because what you want to do is not to keep the traffic starting and stopping, you want to keep it continuously moving, don't you?

(The Witness) Yes, sir; and still provide gaps for pedestrians and cross traffic.

(The Court) This probably is not the time to ask some things that are in my mind. One of them is, why is it necessary to stop four or five times say going up Howard Street to Biddle Street?

(The Witness) Because Howard Street being a two-way street, has all the evils of the two-way streets. You have a lefthand turn at Franklin Street, for example. Then you get somebody tying up the traffic in the inside lane, and you have a traffic operation in the outer lane, loading and unloading, the street is blocked. On the one-way street you always have one-way to open lanes and

there is no conflict with a left turn vehicle, which is a tremendous advantages.

Q. (By Mr. O'Dunne) Are trucks presently barred from using Druid Hill Park? A. Yes, commercial vehicles.

REDIRECT EXAMINATION

By Mr. Houston:

Q. Mr. Murphy, you testified about experience on one-way streets in other cities, are you testifying on the basis of personal observation? A. No.

Q. On what are you basing your testimony? A. On information that has been published in technical journals which have been properly documented to my knowledge.

Q. Give me the names of some of those articles. A. The Traffic Engineering Hand Book.

Q. Which issue? A. I don't have that. I cannot quote it exactly, I can supply the necessary documentary evidence, if you desire.

Q. When, approximately, was that study published? A. I can get you all of those details but I don't have them now.

Q. How recent is your information? A. I can make a guess, but I am not going to try because I want to give you the exact information. If you want the exact information, I will bring in the original source.

Q. What particular cities do they apply to? A. Philadelphia.

Q. Give us the source of your information concerning Buffalo? A. The reference I am making was to a table in a particular section, or the two references I have in mind, in which the experience of various cities was stated and the actual count given.

Q. What was the other reference you gave us, another reference? A. I think it is called "Traffic Engineering Plans and Functions."

Q. What is the date of that? A. I don't remember the date exactly. That is a recent publication. I can't give the exact date.

Q. Do you know anything about the question of traffic controls in those cities before and after designation of their one-way streets? A. The practice is in Philadelphia, I know through observation, to signalize their one-way streets.

Q. No. My question is, in reaching this question about the accident experience, can you tell us what were the traffic controls exercised on a particular street on which the accident experience was taken before and after the designation of one-way streets? A. No, I cannot give you a detailed report on that.

Q. So there may be many factors entering into the result which you have not accounted for? A. That is quite true.

Q. In this matter of the decrease of accidents on Calvert Street, there has not been a significant increase of traffic volume on Calvert Street since its designation as one-way streets, has there? A. There has been a significant increase in the volume rate during certain hours. For example, on Calvert Street during the peak hour that is, from eight a. m., to nine a. m., below Preston Street, the before volume was 1188 and the after volume was 2144.

Q. Can you tell me where that appears or what you are reading from? A. This is before and after volume study at the peak hour. It was taken from the same basic data from which they appear, but it has another derivation.

(The Court) The other one is a twenty-four hour period.

(The Witness) That is right.

Q. You mean there is a breakdown there? A. Of the peak hour.

Q. Can you tell me whether you have the accident rate for the peak hours? A. The accident rate for the peak hours?

Q. Yes. A. No, I don't have that break down.

Q. You cannot really make any generalization unless you give us the accident rate for the peak hour. You made a statement that the accident rate on Calvert Street had decreased? A. That is not a generalization.

Q. You say that is a fact? A. Yes, sir.

Q. Then I asked you whether there has been any increase in the volume of traffic on Calvert Street and you said yes, during the peak hours. A. I qualified that. I said there had been an increase in the volume rate.

Q. In the volume rate during the peak hour? A. Yes.

Q. Now, I want to get the accident rate during the peak hour. A. I cannot supply that to you right now.

Q. Can you tell me whether you have put in any more traffic controls on Calvert Street after its designation as a one-way street? A. Yes, there were additional traffic control signals placed on Calvert Street. I cannot give the specific locations offhand.

Q. And there were additional traffic controls placed on St. Paul Street? A. Yes.

Q. And with the increased volume of traffic over a twenty-four hour period on St. Paul Street, even in spite of that you had this increase in accidents on St. Paul, is that correct? A. Yes, there was an increase; but, again, if it is in order, I would like to state the sample we are discussing is limited. I don't know whether you can draw any concrete conclusions from it for that rea-

son. Accident rates vary considerably from year to year without any change in conditions; at an intersection, for example.

Q. You had your deposition taken in connection with this case, did you not? A. Yes, sir, that is right.

Q. And you knew we were concerned with the matter of relating the question of accidents to traffic volume? A. Yes.

Q. And you made a study of the traffic volume on Calvert Street during the peak hour? A. Yes.

Q. But you did not make a study of the accident rate on Calvert Street during the peak hours, did you? A. No.

Q. Would you say, having adverted to your figures as to McCulloh Street, that McCulloh Street as a two-way Street is now carrying all the traffic it could carry as a one-way street? A. No.

Q. So that you do anticipate an increase in the volume of traffic on McCulloh Street over the present volume, when it is designated as a one-way street? A. That does not necessarily follow.

Q. I ask you what you anticipate? A. We anticipate an increase, yes.

Q. You talked about traffic control signals. Are you in the 1948-1949 appropriation year at the present time? A. We are in the 1948 appropriation year at the present time.

Q. Has the appropriation been exhausted for traffic lights? A. Yes, it has.

Q. So that when you told the Court about the proposed traffic controls you are going to install, you are not talking about something for which funds are now available, are you? A. Funds have already been appropriated and have been expended for signals on Druid

Hill Avenue and McCulloh Street and preliminary work has been done on those controls and no more money is needed to execute the plan presented to the Court.

(The Court) You mean the money is now in hand.

(The Witness) It has already been appropriated, and we have bought the equipment and much of the preliminary work has been done and the plan could be executed in a very short time.

(The Court) How do you do that? Here in the Court House they told us a couple months ago they had no more money.

(The Witness) This was a special appropriation granted by the Board of Estimates shortly after the request was made, and after we got it, we spent it for the necessary equipment and preliminary work, even though the matter was still pending before the Court.

(The Court) Then the equipment is available, is that it?

(The Witness) Yes, sir.

Q. (By Mr. Houston) I ask you whether on October 27th, 1948, you were present when the depositions of Mr. Schmidt were taken? A. Yes.

Q. You were assisting him with such information as he did not have that you had available? A. Yes.

Q. I will ask you if this was the testimony from Mr. Schmidt, supplemented by you—

(Mr. O'Dunne) I object to that unless he shows that Mr. Murphy was asked the same question.

(Mr. Houston) Well, Mr. Schmidt was asked the question and Mr. Murphy answered it.

(Mr. O'Dunne) You told Mr. Schmidt this morning that nothing was said about it.

(The Court) I think there is something reasonable in Mr. O'Dunne's position. I don't think this witness should be asked to answer a question that was asked Inspector Schmidt.

(Mr. Houston) Except that he answered it.

(Mr. O'Dunne) Inspector Schmidt answered it.

(Mr. Houston) No, Mr. Murphy answered it.

(The Court) Then ask him if he said such and such a thing then and says something else now.

Q. You stated, Mr. Murphy, back on October 27th, 1948, did you not, that the appropriation for traffic controls and other things had been exhausted the day preceding? A. That is correct.

Q. And at that time the work for these lights and things had not been completed, had they? A. All of the equipment had been purchased quite a while before that time and much of the work had been done at that time.

Q. What additional work and what additional expenditures would have had to have been incurred since October 26th, 1948, for you to put all of these signals in operation? A. None.

Q. No work at all? A. No.

Q. Well, where are the signals now, on the street or in the warehouse? A. All of the work has been accomplished. We have not hung the signals because we are awaiting the outcome of this case. We did not want to be in the position of anticipating the finding of the Court by going ahead with the plan which is now in question before the Court.

(The Court) Then the equipment is not available, it is on order?

(The Witness) No, we have it.

(The Court) Is that interchangeable? Did you get that for Maryland Avenue and Charles Street?

(The Witness) No, we bought the equipment and held it in reserve in stock.

Q. How long has this rule been in effect there should be a traffic officer on duty at all principal school intersections? A. I cannot answer that question.

Q. You have been a traffic engineer now for how long? A. Since March, 1947. However, I am not associated with the enforcement policies of the Police Department.

Q. But you testified it was a rule to put a traffic officer at all school intersections. A. Where those men are available. It has been my observation when men are available they are assigned to school crossings morning and evening.

Q. Do you know whether any policemen were regularly assigned to school crossings in this particular area before this case started? A. That I do not know. I know nothing about the assignment of officers in specific areas.

(Mr. Houston) That is all.

(The Court) I am not clear on this equipment business. I understood you to say you had the equipment on hand.

(The Witness) Yes, sir.

(The Court) Then I understood you to say you did not want to buy the equipment because you did not want to anticipate the judgment of the Court.

(The Witness) We did not want to install the equipment, your Honor.

(The Court) But you have the equipment available somewhere?

(The Witness) That is correct, it is in the storeroom.

(The Court) It is in the storeroom of the Traffic-Engineering Department?

(The Witness) Yes, sir.

(The Court) Do you have all of it?

(The Witness) We have all that is necessary to execute that plan.

(Testimony of the witness concluded.)

JOHN J. LANG,

a witness of lawful age, produced on behalf of the plaintiffs, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Houston:

Q. Will you state your official position? A. Deputy Director of Planning.

Q. You have been Deputy Director of Planning how long? A. Since January of 1948.

Q. Prior to that, what was your official position? A. Secretary-Engineer of the Planning Commission.

Q. Did you have any other position besides Secretary? A. I had charge of the operation of the staff.

Q. Were you the senior engineer of the Commission? A. We have no such position in our department. The Secretary-Engineer was the ranking civil service position on the Commission's staff.

Q. I ask you if you testified in your deposition on October 8th, 1948 in this case? A. I don't know the exact date, but we appeared over in the office of the City Solicitor and you were present, along with Mr. O'Dunne, and I testified on that day.

Q. I will ask you whether you recall this question and answer: "Q. Your official position? A. Deputy Director

of the Department of Planning. Q. And you have been that how long? A. I have been Deputy Director since February of this year, but senior engineer of the Commission since 1939." A. I could not have said "senior engineer" because there is no position of senior engineer. I was secretary-engineer of the Commission up to that time.

Q. That was the Planning Commission? A. Yes.

Q. Will you tell us whether the Planning Commission functioned with regard to the designation of the streets, arterial highways or anything like that? A. It is not our responsibility to designate direction of traffic.

Q. Did you study or work on the question of traffic designation? A. Our Commission, in cooperation with other municipal departments, study the highway patterns, and that is part of the general planning scheme to study traffic.

Q. Did you work with anybody else except municipal agencies? Did you work with any other bodies besides municipal agencies, Baltimore Transit Company for instance? A. I don't understand your question.

Q. Let me ask you this. Do you recall this answer in your deposition: "Q. Under the Planning Commission, what was the function of the Planning Commission with regard to the designation of streets, as either one-way expressways, arterial highways, or what? A. Those particular matters would be studied and worked out jointly with the other municipal agencies, the Transit Company, Public Service agencies, and being, we would say, a part of the traffic and highway matters, it would come to our Commission for approval." A. That is correct. I repeat that statement.

Q. I ask you prior to 1946, was there an overall plan for development of traffic in Baltimore City? A. The overall pattern was in the process of being studied.

Q. I will ask you what studies or reports the Planning Commission made concerning the development of traffic in Baltimore City prior to the new city charter, while you were secretary? A. Our Commission itself made no written report on traffic since 1939 or 1940.

Q. Did you adopt any report that had been made concerning the development of one-way streets? A. We conferred and discussed with various agencies, including The Baltimore Transit Company, one-way streets because it was part of the overall traffic and transit improvement program that was launched by The Baltimore Transit Company.

Q. Didn't the Baltimore Transit Company submit to the president or members of the City Council of Baltimore its own plan for the designation of one-way streets, copy of which was given to your Planning Commission? A. You are referring to the Riders Digest?

Q. Yes. A. That plan was discussed with our Planning Commission.

Q. Did your Planning Commission adopt that and approve the report and make it in substance its own report? A. I don't believe our records will show we gave the entire document an outright approval. There were certain changes that would have to be made, there were various phases of this program that would have to be approved by our request of the Mayor and City Council. Our Commission reserved the right to approve the improvement program of the rapid transit and reconversion program and the designation of streets based on the various projects. They have anywhere from one to six or seven projects.

Q. But the designation of McCulloh Street and Druid Hill Avenue as one-way streets, with removal of the fixed wheel traffic to free wheel traffic on Druid Hill Avenue, was a project of the Transit Company? A. Yes. Our Commission concurred in that plan.

(The Court) Where did the plan originate, in your Commission or in the Transit Company?

(The Witness) I would say it originally was brought up in the highway pattern which was developed by the Chief Engineer or the director of Public Works, and the plans were discussed with our Commission and our then Chief Engineer, Mr. Nathan L. Smith made a comprehensive report on traffic arteries and traffic.

(The Court) Are you using the plan that originated with Mr. Nathan Smith?

(The Witness) This particular plan?

(The Court) This particular plan, yes.

(The Witness) I don't know I can make that direct statement. I would have to check our records.

Q. (By Mr. Houston) What comprehensive study of traffic in Baltimore City, showing points of origin and points of destination, was in existence prior to, say, 1946, if any? A. As far as the comprehensive origin and destination studies, the documents that are there that were made by the State Roads Commission jointly with the City of Baltimore, and the Federal Government. That is the only real comprehensive origin and destination survey.

(Mr. Houston) We can examine those after the Court recesses. May we leave these here?

(The Court) You can leave them here during the trial of the case and we will see that you get them back, Mr. Lang.

Q. Did the Planning Commission make any reports as to the state of pedestrian traffic on these streets that were proposed by the Baltimore Transit Company as one-way streets, with removal of fixed wheel traffic to free wheel traffic on Druid Hill Avenue? A. None.

(The Court) Your answer is no?

(The Witness) No, sir.

Q. Did the Planning Commission make a study of the proposal for the dual highway in Druid Hill Park connecting with Druid Hill Avenue and McCulloh Street?

A. Our Commission records show that there were some previous studies made on that project and then the final plan was developed in the Department of Public Works, and our Commission approved that particular plan on September 25th, 1946.

Q. And that was approved after the report of The Baltimore Transit Company regarding the designation of Druid Hill Avenue and McCulloh Streets as one-way streets, with removal of the fixed wheel to the free wheel traffic on Druid Hill Avenue? A. Yes, because their report came out in 1945 and our approval was in September, 1946.

Q. Also the dual highway was constructed with re-conversion funds which were acquired from The Baltimore Transit Company? A. I could not answer that question. That is not a responsibility of our department.

(The Court) That has been testified to earlier in the case.

Q. There has been earlier testimony, Mr. Lang, of the consideration of Maryland Avenue as an alternative to Druid Hill Avenue.

(The Court) Madison Avenue.

(Mr. Houston) I am sorry. There has been testimony of the consideration of Madison Avenue as an alternative to Druid Hill Avenue as one of the one-way streets. Are you familiar with that from your official position with the Planning Commission? A. You say Madison Avenue?

Q. Yes. A. Our department did not discuss Madison Avenue as part of the one-way system.

Q. Your department approved of the dual highway through Druid Hill Park as an integral link with Druid

Hill Avenue and McCulloh Streets as one-way streets?

A. Yes.

Q. So that the decision to make McCulloh Street and Druid Hill Avenue as one-way streets, so far as your department is concerned, had been arrived at by 1946?

A. I can say yes to that question.

Q. The dual highway would have very little use compared to its potentialities unless Druid Hill Avenue and McCulloh Street were designated as one-way streets, would it not? A. That would make it more efficient for a dual highway, yes.

Q. Much more efficient? A. Yes.

Q. And it would carry a much larger volume of traffic into and out of the dual highway? A. I don't know what percentage of increase but it will separate the traffic. In other words, you have a total volume moving in two directions on the two-way street. That same volume will be divided up and will be a safer movement in the one-way direction.

Q. At the present time it is testified that because of traffic hazards, this dual highway has been closed off at Druid Hill Avenue and McCulloh Street? Are you familiar with that fact? A. Right there by the car barn, do you mean Cloverdale Road?

Q. Yes. A. You mean the cutoff from the car barn through the park there is a link where you make a left turn?

Q. Yes. That has been blocked off?

(Mr. O'Dunne) I don't think he understands the question.

Q. Are you familiar with the fact that that has been blocked off? A. If you make it clear to me exactly what locations you are talking about being blocked off, I travel through there and I can see the street that is blocked off.

(The Court) He is talking about the section from Cloverdale Road up to Fulton Avenue and Druid Hill Avenue.

(The Witness) I have not been through for the past two weeks, your Honor, and I am not familiar with whether the street is blocked or not.

Q. Mr. Lang, as secretary of the Planning Commission, did you consider the density of population through which these one-way streets, McCulloh Street and Druid Hill Avenue, would move? A. Our Commission, in studying a street pattern, would take that particular subject into consideration.

Q. Well, did you? A. The Commission, knowing and being so familiar with the area of the city, I would not know whether the Commission themselves when they discussed it, took the density of population into consideration. Most of the members of our Commission are very familiar with all sections of the city, and I am pretty sure they knew the characteristics of that particular neighborhood.

Q. Is there anything which would let you say that the Commission did take into consideration the density of the population in that particular area when it considered the question of approving McCulloh Street and Druid Hill Avenue as one-way streets? A. I don't believe the Commission—it probably felt that the population would not have any effect on that particular project. If it had been a serious problem, they probably would have considered it because they consider all angles before they make a recommendation and give approval to such a plan.

Q. You know, as a matter of fact, do you not, that this particular area is the most densely populated in the City of Baltimore? A. I know it is one of the most heavily populated areas; yes, sir.

Q. Did you take into consideration the location of schools in reference to the designation of these two streets as one-way streets? A. They were cognizant of the factor of the location of the schools and churches.

Q. Will you locate the schools and churches for us in that area? A. From that map or from memory?

Q. Oh, either.

(The Court) If you want to use the map, you are at liberty to do so.

A. Just from memory I would not want to testify at this location there is such and such a school, but we have a map in the office that would indicate the location of schools and churches along that route.

Q. Is there anything in the records of the Commission which would show that the Commission considered the question of the schools and churches in reaching its approval of Druid Hill Avenue and McCulloh Streets as one-way streets?

(Mr. O'Dunne) I object. Wouldn't that be a conclusion of the witness? The records would be the best evidence.

(The Court) He does not seem to know. He is testifying more or less at random I think. I do not like to characterize it that way, but he says he feels sure the Commission took into consideration those, and feels sure that the Commission took into consideration the safety condition with regards to school children, and now that he has gotten that far, counsel is pinning him down a little bit.

(Mr. O'Dunne) He is now asking what is in the records of the Planning Commission. I don't see how that is a fair question. The records would be the best evidence of what is in them, and the witness is being asked to characterize what is in the records and to state his conclusions of what they show.

(The Court) He was asked whether he knew the location of the schools and churches.

(Mr. O'Dunne) He was asked if he knew the location of the schools and churches.

(The Witness) We have maps in the office which show the location of schools and churches.

(The Court) You personally don't know where they are, do you?

(The Witness) I have a general idea. It is ninety-two square miles and I have a general idea of where schools and churches are. I do know there are public schools and churches along those highways. Our use maps will show it.

(The Court) It has not changed much in years and I once lived close by there. I have a pretty good idea.

(The Witness) I think our land maps indicate the uses along those two streets.

Q. Are there minutes of the City Planning Commission which show the action of the City Planning Commission on the extension of Auchentoroly Terrace and on the designation of Druid Hill Avenue and McCulloh Street as one-way streets? A. I have a copy and I believe I gave you a copy of that hearing in October. Here is a copy of excerpts of the Commission minutes of September 25th, approving the Auchentoroly project.

(Mr. Houston) May we have this marked as Plaintiffs' Exhibit 8.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 8.)

(Mr. Houston) Your witness

(Mr. O'Dunne) No questions.

* * * * *

(St. Tr. p. 122):

CLARENCE J. ROBERTS,
2323 Ivy Avenue

DIRECT EXAMINATION

By Mr. Houston:

* * * * *

(St. Tr. p. 123):

Q. What school and what position? A. I am principal of School No. 103.

Q. Which is located where? A. Division Street near Lanvale, in the 1300 block Division Street.

Q. What is the enrollment of your school? A. 799.

Q. Of your pupils, can you give us approximately the number who have to cross Druid Hill Avenue or McCulloh Street to get to school?

* * * * *

(St. Tr. pp. 123-124):

A. I have 285 children who must cross one or the other of those two intersections, 285.

Q. Do you have experience with McCulloh Street before it was designated an arterial highway? A. When was it designated? I have been at this school since 1947, September, as principal. I have had experience at School 125 in 1938.

Q. May I ask whether this school No. 125 has the same crossing problem that your school No. 103 has? A. It does. It is located at Pennsylvania Avenue and Dolphin Street, so we have children coming from Brevard Street or McCulloh, Madison, Jordan Street, and others.

Q. Are you also acquainted with the flow of traffic on Druid Hill Avenue? A. Yes, very much so.

Q. I will ask you whether the traffic on McCulloh Street flows faster than the traffic on the other streets which are not designated as arterial thoroughfares.

(Mr. O'Dunne) Will you fix the time?

Q. Now. A. As far as human judgment is concerned, I would say yes. It flows faster to my eye.

* * * * *

(St. Tr. pp. 125-126):

Q. Will you state which street carries the most traffic in the vicinity of the school? A. Which of the two streets?

Q. Yes. A. McCulloh Street carries the more traffic.

Q. And at a greater speed? A. As far as I can judge, it certainly flows faster. I can make more time down McCulloh Street when I go to work.

* * * * *

(St. Tr. p. 126):

Q. Have you had the service of a traffic officer at your crossings for an extended period of time? A. At those two crossings or are you speaking of something else?

Q. Those two streets? A. No, we have not had. I have had to go there or send a teacher or take some other means. We have not had service there.

* * * * *

(St. Tr. p. 128):

Q. What are the recreational facilities in the area for the children when they are out of school? A. We have been granted permission to block off the bed of Division Street between Lanvale and Lafayette, but only during school hours. I would say the recreational facilities are limited to a community house.

* * * * *

(St. Tr. p. 129):

Q. After school hours, are there any facilities for play in the school yards and any equipment? A. No, there is no equipment. The school yard is not fitted for recreation nor is there proper supervision.

Q. Is there any place except this one community house for the children to play, any other place in the area except in the streets and the alleys? A. They make use of a little space there in the 1200 block of Etting Street, but it is full of glass and dangerous. There, too, they get into trouble with the neighbors.

* * * * *

(St. Tr. pp. 129-130):

FRANK J. SORRELL,
2503 Montebello Terrace

DIRECT EXAMINATION

By Mr. Houston:

* * * * *

(St. Tr. pp. 130-131):

Q. And your position? A. I am principal of School 137 located on Francis Street facing Clifton Avenue.

Q. And your present enrollment is what, sir? A. 991.

Q. Do you have students who are compelled to cross Druid Hill Avenue and McCulloh Street in order to get to and from your school? A. Yes, in the neighborhood of 250 children.

Q. How long have you been in the area teaching? A. Since February, 1947.

Q. Were you familiar with the area prior to February 1947? A. Yes. At one time I lived in the 2000 block Druid Hill Avenue.

* * * * *

(St. Tr. p. 131):

Q. Have you had the service of an officer at the principal intersections which your children have to cross to go to school? A. No.

* * * * *

(St. Tr. p. 132):

Q. What about Druid Hill Avenue, is there any traffic officer or policeman directing traffic to facilitate children crossing those streets? A. For twenty years I have never seen one above Lafayette Avenue.

* * * * *

(St. Tr. p. 134):

JESSE P. PEAKER,
421 Cummings Court

DIRECT EXAMINATION

By Mr. Houston:

* * * * *

(St. Tr. p. 135):

Q. Are you president of the Parent-Teacher Association of School No. 122? A. Yes.

Q. Will you state where that school is located? A. That school is located on Preston Street, between Pennsylvania Avenue and Druid Hill Avenue.

Q. Do you know the enrollment of that school? A. The enrollment of that school is 1381.

Q. Do you know how many children have to cross Druid Hill Avenue and McCulloh Street in order to get to school? A. 502 children.

Q. How long have you been acquainted with the traffic conditions on McCulloh Street? A. Well, I have lived in the vicinity for the last seven years.

Q. Was McCulloh Street designated as an arterial highway within the last seven years? A. To my knowledge not until recently.

* * * * *

(St. Tr. pp. 136-137):

Q. What have you observed as to the experience of children in attempting to cross the street from McCulloh

Street and Druid Hill Avenue on the way to and from school? A. It is a hazard for small children crossing those streets and quite a number of them have to cross both of them. Children crossing Druid Hill Avenue and McCulloh Street from No. 122, particularly at McCulloh Street and Presstman Street.

Q. Has there been a traffic officer stationed there at the times children have been coming to and from schools to assist them in crossing? A. During the last year there has been an officer at McCulloh Street and Preston.

Q. Any place else? A. There is another at Pennsylvania Avenue and Preston that takes care of school 122.

Q. How long has he been there? A. A little longer than the other officer, approximately eighteen months.

Q. Is there any at all at Druid Hill Avenue? A. There is none at all at Druid Hill Avenue.

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(St. Tr. pp. 137-138):

WILLIAM N. PARROTT,
1312 West Lanvale Street

DIRECT EXAMINATION

By Mr. Houston:

* * * * *

(St. Tr. p. 138):

Q. And your position in the school? A. Principal of School 125, located at Pennsylvania Avenue and Dolphin Street.

Q. What is your enrollment? A. 583.

Q. Do any of your students have to cross Druid Hill Avenue and McCulloh Street to get to school? A. 147.

Q. Are you familiar with traffic conditions on McCulloh Street and Druid Hill Avenue? A. Somewhat.

Q. Since how long have you been familiar with those traffic conditions? A. I have spent practically all my life in that particular vicinity and I have been at the present school since 1942.

* * * * *

(St. Tr. pp. 140-141):

Q. What about the traffic conditions in the morning as compared with traffic conditions at the time your school left out, which would, as you say, was more acute?

A. I would say that the morning is more acute because it happens at the rush hours of folks going down town.

Q. Are there any recreational facilities in the area of your school for children to play in out of school hours?

A. Very few. We have a scattering of the folks who come into the school yards, but there is no recreational facilities planned for them and no supervision for them. The community house is located in the 1200 block Etting Street, but that takes care of a handful, and we have one or two lots in that vicinity; but outside of that, no recreational facilities have been provided.

Q. Would you say that the play time of the children has to be spent on streets? A. Decidedly so.

Q. I mean in that area? A. Yes.

* * * * *

(St. Tr. p. 144):

REDIRECT EXAMINATION

By Mr. Houston

Q. How large is your school yard? A. Well, I will give you some idea. We had to stagger our recess periods so that there would be no more than three classes on yard time at any one particular time.

Q. And three classes would amount to how many children? A. Three classes approximately forty children per class.

Q. So how many recess periods do you have to have in your school? A. We begin to have recess at ten and with eighteen classes will give you some idea of how many. We have to have at least six.

Q. Six recess periods because of lack of space? A. That's right.

* * * * *

(St. Tr. pp. 145-147):

CLARENCE J. ROBERTS

Recalled

DIRECT EXAMINATION

By Mr. Houston:

Q. Mr. Roberts, you are under oath as you have already testified. Are any classes in your school on an afternoon shift? A. We have two classes on an afternoon shift.

Q. Will you tell us what two classes they are? A. They are 1-B classes and beginners, six year old children.

Q. What time does that class leave out? A. It dismisses at quarter after four.

Q. Is that a time within which the afternoon traffic has begun to increase? A. We have to go to the corner with them because we notice that it is a little heavier. It is heaviest round about four-thirty, but the children take a little time to get up to that point. They have some difficulty because of the increase of traffic unless the parents come for them.

Q. You also have a morning shift class, do you not, which comes in at eight o'clock in the morning? A. We have two classes morning shifts, they are 1-B classes, six year old children also.

Q. So that the youngest children are the children who are most exposed to the rush hour traffic, is that right?

A. These children go to school at quarter of eight until twelve o'clock.

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(St. Tr. p. 149):

MISS AIMEE WEBER,
2634 North Charles Street

DIRECT EXAMINATION

By Mr. Houston:

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(St. Tr. p. 149):

Q. Where is your residence with reference to St. Paul Street? A. I live on Charles Street, which runs parallel to St. Paul Street.

Q. Is Charles Street near St. Paul Street? A. Charles Street is one block west of St. Paul Street. Charles Street is the dividing line of the city between east and west.

* * * * *

(St. Tr. p. 150):

Q. And Calvert Street is where with reference to your residence? A. Calvert Street is two blocks east of Charles, North Charles.

* * * * *

(St. Tr. p. 151):

Q. Will you state what has happened? A. Traffic has increased very considerably. The people have been subjected to things in the way of noise and dust, heat, fumes from the gases, that have made their lives miserable, and many, many of them have moved. * * *

* * * * *

(St. Tr. p. 152):

Q. Do you drive your own car? A. I drive my own car. I don't travel on St. Paul and Calvert Streets because I consider it very dangerous. I am afraid to travel

on them. I was almost killed on St. Paul Street the first night it was instituted one-way street, so I go up the Fallsway. What was your question?

(Question read by the reporter.)

A. Yes. I was standing on the corner of St. Paul Street and 26th Street about two weeks ago and the automobiles were speeding at least forty miles an hour, judging from driving myself.

(The Court) How many years have you been driving?

(The Witness) Since 1930 I think.

(The Court) I think you are qualified to estimate speed under the Maryland rules.

* * * * *

(St. Tr. pp. 155-157):

MISS JOYCE BARKER,
1710 St. Paul Street

DIRECT EXAMINATION

By Mr. Houston:

Q. Miss Barker, how long have you lived on St. Paul Street? A. Since 1926.

Q. You were living on St. Paul Street before St. Paul Street was designated as a one-way street? A. Yes.

Q. Can you tell us whether you have observed any changes in St. Paul Street since its designation as a one-way street? A. Yes, there has been a great change.

Q. Will you give his Honor the nature of the changes you have observed personally? A. Well, there are more vehicles, a great many more vehicles, and the speed is greater. There is more dirt blown into the houses on account of so many vehicles and speeding so fast, and they come closer to the houses. One time last winter, when there was a snow and slush, melting snow on the street, to give an example of how close the vehicles do

come, I was walking on St. Paul Street, and although as close as I could get to the houses, I was splashed with the muddy slush. And making these streets one-way has enabled the Transit Company to put the buses there, which are a great annoyance on account of the fumes and noise, earsplitting noise, and in summer time we have to keep our windows closed all the time on the street on account of the bus noise and the horns from the automobiles. They are continually blowing, evidently from cars going from one lane to another. Anyway, there is a great deal of horn blowing. We have to have our windows closed all the time in the summer time, and, of course, in the winter.

Q. Are there any trucks on the street late at night?

A. There are trucks on the street all the time. They jar the houses so that the new plastering we had put on our front room recently has cracked all over from the jarring from the trucks. You can feel the house just vibrate.

* * * * *

(St. Tr. pp. 165-166):

CLARENCE MITCHELL,
1324 Druid Hill Avenue

DIRECT EXAMINATION

By Mr. Houston:

Q. You are a native Baltimorean? A. I am.

Q. How old are you? A. Thirty-seven.

Q. Have you been acquainted with this area all your life? A. I have.

Q. Have you lived in it or near it all your life? A. The majority of my life I have lived in that area.

* * * * *

(St. Tr. p. 166) :

Q. You came back here and was city reporter for the Afro-American in 1935? A. 1932.

* * * * *

(St. Tr. pp. 167-169) :

Q. And you have been N.A.A.C.P. secretary since 1946? A. That is right.

Q. How many children do you have? A. I have three children

Q. Two of school age? A. Two of school age.

Q. Do you know the total number of children in these areas? A. There are approximately 7,000 children of school age in that area.

Q. Do you arrive at that from an analysis of a study you have made of the United States Census? A. That is right, based on the census.

Q. Will you check that for us and see whether it is 7,000 or 14,000? A. The total school enrollment in that area is 7,000 in the nine schools we are concerned with, and 4,000 approximately of those children cross these streets which are marked for speedways.

Q. And also there are about 14,000 total in the area, are there not? A. There are approximately 12,000 children in the area, according to the census tract, 8,000 of them or more from one year up to fourteen years of age.

Q. This area which we are talking about from Dolphin Street north, Druid Hill Avenue and McCulloh Street, has that been considered perhaps the best negro area in Baltimore? A. It has been so considered ever since I can remember.

Q. What is the situation so far as the negro area expanding? A. The area is hemmed in pretty much by

various actions on the part of property owners in the surrounding areas. For example—

* * * * *

(St. Tr. pp. 170-177):

Q. Is there a concentration of schools in that area?

A. There are nine schools in that area, which is, according to the census information, one of the most densely populated areas per acre in the city, the most densely populated.

Q. Is that according to a study made by the city itself?

A. It is a study made by the city itself, based on information which apparently they got from the Bureau of Census and redevelopment of blighted residential areas in Baltimore, July 1st, 1941, of the Commission on City Plan.

Q. Will you state whether there has been any change in the traffic on Druid Hill Avenue that you have observed since the passage of this ordinance? A. There has been a considerable increase in the traffic, particularly of trucks, apparently under the impression that it is already a speedway because they move with great rapidity there, and it is especially noticeable in the houses when one is trying to sleep.

Q. What does it do to a person trying to sleep or what does it do to you? A. As far as I am concerned, it makes life pretty miserable. It keeps me awake all night from the noise. The trucks come down and stop, say at the intersection of Dolphin and Druid Hill, which is about a block and a half away from my house, and when they begin to start up again they make an awful noise at that time of the morning, and the southbound trucks stop at the intersection of Lafayette and Druid Hill Avenue because the cross traffic there is usually heavy even late at night, and when they start up, there is more noise and of course worse because it is closer.

Q. What about buses? A. We have noticed as far as the bus traffic is concerned it is much more speedy than the street cars were and a greater hazard to the children playing on the sidewalks, in that the street cars, as fixed wheel traffic, could not vary out of their bed, but the buses switch back and forth in an effort to get in front of other traffic and they are always operated at what appears to be a very excessive speed.

Q. Have you paced any of these buses or cars? A. I have, because it has been my experience in going to work in the morning—my office is in Washington, your Honor—and I walk to the station in the morning, going out Lanvale Street, and it is necessary for me to cross McCulloh, I have been doing it for the last three or four years, and always there has been an awful lot of traffic there and everybody is going fast, so I decided I would make an effort to pace that traffic and see how fast it was going, and on two days, one in October and one in November, I got in my car and followed some of those automobiles down the street, and I went the limit of about thirty or thirty-five miles an hour, and everybody left me way behind.

(The Court) This is on McCulloh Street?

(The Witness) On McCulloh and Druid Hill Avenue, I paced them on both streets.

(The Court) Is Druid Hill Avenue a boulevard also?

(The Witness) No, there is a marker at Dolphin and Druid Hill and at that point it makes it a through street, and a lot of the people are of the impression that the whole thing is a through street and there is an awful screeching and grinding of brakes.

Q. Do you have any policemen at the intersections for the school children? A. There has never been any policemen at the intersection of Lanvale and McCulloh Streets. And at Lafayette and Division Streets prior to the time that our neighbors up there had gotten inter-

ested in this whole problem. I have observed school children, at the peak of the school hours, getting off the buses at Dolphin and McCulloh and crossing at Lanvale and McCulloh virtually fighting their way across the heaviest waves of traffic, and the only way they could get across was to get together and go over in groups. Lately part of the time there have been policemen there.

Q. Tell us something about the matter of school children playing in the streets. What about the recreational places in that area? A. There is practically no recreational space, there is only one school in that area which actually is used as a recreation center out of those nine, and that area, which is down on Preston Street near Druid Hill Avenue, was subtracted from by the addition of some Quonset huts which were built by the Government for vocational training. Mrs. Mitchell made some effort to get some recreational activity started across the street from us and went out among our neighbors to solicit funds for the purchase of the school equipment which was to be placed in the school yard. The city let the thing operate for about one summer and thereafter it ceased altogether. Up on the northern end of it, there is a so-called playground for children, which is at present on the east side menaced by the northbound traffic that comes up from McCulloh Street, and if this southern speedway is opened, it will effectively isolate that playground on the northern perimeter of this area and make it necessary for children who cross there to cross that speedy traffic on the east and the west, and the traffic will converge at either end, so there is no way of getting across there. I have frequently taken my children to the park for various outings and crossed that area, and as it is now situated it is virtually impossible for me, an adult, to get across there now. I just shudder to think of what will happen to the children.

Q. Has there been a fatal accident up there by that playground?

(Question objected to; objection overruled.)

A. There has been a fatal accident. Last year a child attempting to go over there on a bicycle was killed.

(The Court) That is near Druid Hill Park.

(The Witness) That is the playground I just referred to at Cloverdale and Druid Hill Park.

(The Court) Where the old men used to play croquet over there, isn't it?

(The Witness) Approximately, your Honor.

Q. Have you seen any accidents on Druid Hill Avenue from buses? A. Yes, I have seen several and one in particular I saw last summer. There was a child riding down the street on a bicycle and when she got to the intersection of Lafayette and Druid Hill, a bus which was coming southbound on Druid Hill struck her from behind. I believe she wasn't very far from the curb, as close as she could get to the curb because there were cars parked between her and the actual curb, and a bus knocked her off the bicycle and while she was lying on the ground the driver got out and took her—

Q. Well, you can skip that. Were your taxes increased from 1947? A. Yes, they were.

Q. By how much? A. By approximately \$34.

Q. I will ask you if you have your bills prior to the increase and the bill after the increase? A. I do.

Q. What was it before the increase? A. Before the increase it was \$128.17.

Q. And after the increase? A. \$162.93

Q. Let me ask you if it were not for the matter of this designation of Druid Hill Avenue as a one-way expressway, you would protest that increase? A. No, I want to carry my share of the burden of the city expenses, I

have no objection to paying it as long as I am not penalized by some nuisance in front of my house.

(The Court) What is the number of your house?

(The Witness) 1324 Druid Hill Avenue, just approximately in the middle of the block.

Q. Would you have protested within the twenty days provided by the statute, if this Druid Hill Avenue had at that time been designated as an expressway?

(Question objected to.)

A. I most certainly would.

* * * * *

(St. Tr. pp. 177-179):

Q. The question is, if Druid Hill Avenue at that time, at the time the assessment was increased, had been designated as a one-way street, would you have protested the increase within the twenty days provided by the law? A. I most certainly would have, your Honor, because I consider that a real penalty and a nuisance and a hazard so far as the children are concerned.

Q. What is the effect on you and the use of your property, as a resident, as the result of this designation? A. Well, it makes it necessary for me to consider two things. Either decide whether I am going to suffer a nervous breakdown because of the possible accidents which might involve my children or other children in the neighborhood that I have come to know and I am fond of, or consider the possibility of moving out of the city or into some other area, and I am pretty much stopped from either of the latter alternatives because, first, in Baltimore there is no place I can move, and, second, in Washington I have not been able to find anything there that is reasonably within my means.

Q. Are there any front yards on that street? A. There are no front yards on that street.

Q. How wide are the sidewalks? A. Approximately seven feet from step to curb, and maybe two feet more if you include the building line.

Q. And from the curb to the steps it would be about what? A. That is only four feet.

Q. Would that be the only place the children have to roller skate? A. As far as I know, they have no other place to play but on the sidewalks. In my case, I have spent about \$300 trying to recondition my back, which is not as large as this court room, so my children would have a place to play, and it is impossible to use action toys there like bicycles and skates, which children need for muscular development.

* * * * *

(St. Tr. pp. 179-208):

HONORABLE THOMAS D'ALESSANDRO

DIRECT EXAMINATION

By Mr. Houston:

Q. Mr. Mayor, how long have you been in office? A. About eighteen months.

Q. Before that you were a resident of Baltimore, were you not? A. All my life.

Q. Are you acquainted with the area of Druid Hill Avenue and McCulloh Street? A. Yes, sir.

Q. And you are acquainted with the density of population there? A. Yes.

Q. Does that area have just about the densest population area in Baltimore? A. I don't know. I would have to make a survey of the whole city to find out.

Q. Do you remember whether there has been— A. Down where I live you will find it very heavily populated.

Q. Do you remember there has been a redevelopment study by the Commission on City Plan on July 1st, 1945, are you familiar with that? A. No, I am not.

(Mr. Biddison) This is three years ago.

Q. You have never seen this? A. I probably have seen it, but I don't have time to read all of those reports. If I did, I couldn't do any work. I get reports every day.

Q. Is the area around Druid Hill Avenue and McCulloh Street very densely populated? A. I would not say very densely, it is densely populated, but not very densely.

Q. What about the recreational areas? A. You will have to get hold of the Director of the Park System. It is impossible for the Mayor to know all of those things. You are probably going to ask me about the Police Department. I can't coordinate all of these things. I am Mayor and all I have to do when these matters come before me is to use my best judgment.

Q. Mr. Mayor, the program to make Druid Hill Avenue and McCulloh Street one-way streets came before you, did it not? A. Yes, it did.

Q. And you made a study of that before you gave your approval? A. Yes.

Q. Did you know the origin of the plan came from The Baltimore Transit Company? A. That plan was adopted in the previous administration after a thorough study, then it was brought before me.

Q. I asked you if you know the origin of it isn't in connection with The Baltimore Transit Company? A. No, I did not.

Q. Did you know it was part of the plan for the reconversion of traffic from fixed wheel traffic to free wheel traffic by The Baltimore Transit Company? A. I think it was a plan to help solve the traffic situation not only in that section but throughout the city.

Q. Mr. Mayor, in giving consideration to the matter of designating a street one-way or one-way express-way, consideration would normally be given to the citizens who are residents along the way, would it not? A. We always give consideration to the citizens. I gave them a hearing in my office before I signed the bill.

Q. Didn't you tell the people who conferred with you in your office you could not do anything with it inasmuch as the bill was your measure? A. That is not so.

Q. Do you remember Mr. Milton Brown? A. Yes, I remember him, but I did not say it was my measure. I just told you no, that it was a baby of the previous administration.

Q. Did you tell Mr. Brown you could not veto it because you had asked for the ordinance? A. That isn't so.

Q. Did you tell Mr. Brown that you could not veto it because the city had already spent \$400,000? A. That is right—I did not say the amount of money. I made a statement which I would like to read, if the Court permits.

Q. Will you let me finish my question? A. All right.

Q. Did you make a statement to Mr. Brown— A. I never made a statement to Mr. Brown at any time. I spoke to a group of people. Mr. Templeton was head of the Committee.

Q. Did you make a statement to a group, of which Mr. Templeton was the head, and at which Mr. Brown was present, in which you said you could not veto this because the city of Baltimore had already created a dual highway through the western end of Druid Hill Park and that dual highway would be of no use to the city unless— A. I believe I did say—

Q. I have not finished. A. I said at considerable expense to the city too.—

Q. I still have not finished. A. I cannot answer that. I am not that good, Mr. Houston, for you to talk for a half hour and then answer your question.

(The Court) I think, Mr. Houston, the Mayor thinks you are asking too many questions at one time. Just read so much of the question that has been asked, then see whether it is a proper place to terminate it, and maybe split it a little bit.

(Question read by the reporter as follows:)

Q. Did you make a statement to a group, of which Mr. Templeton was the head, and at which Mr. Brown was present, in which you said you could not veto this because the City of Baltimore had already created a dual highway through the western end of Druid Hill Park and that that dual highway would be of no use to the city unless—

(The Court) Now, then, Mr. Houston, complete your question.

Q. —unless Druid Hill Avenue and McCulloh Street were designated one-way expressways? A. I believe I did.

Q. Now, may I see what you are about to read. A. It is the statement I made when I signed the ordinance.

Q. Was that the statement which you made when this delegation was before you? A. That is right.

Q. Did you read that written statement at the time, sir? A. Yes, sir, not only the statement but they asked me—at the time I told them I was going to sign the bill, they asked me if they could come back—they appeared to be satisfied and would not go to court on a bill, and later on they told me they would probably come back in the way of more traffic regulations, playground facilities and other improvements there to help control the situation, and I told them they could come back at any time, that I would be willing to give them a hearing and if I could help improve the conditions at any time in that location, I would be glad to do it.

(The Court) Mr. Houston, do you want his Honor, the Mayor, to read that statement?

(Mr. Houston) I have no objection to his reading the statement, your Honor.

(The Court) He said he wanted to read it. You have him under examination.

(Mr. Houston) I have no objection to his reading the statement.

(The Court) All right, Mr. Mayor.

A. (Reading): "I will sign ordinance No. 378, making Druid Hill Avenue, from Fulton Avenue to Eutaw Street, Paca Street, from Druid Hill Avenue to Franklin Street, McCulloh Street from Eutaw Street to Cloverdale Road, and Auchentoroly Terrace, from Holmes Avenue to Fulton Avenue, one way streets for vehicular traffic.

"The enactment of the bill in question was a clear necessity in view of the urgency of the situation relative to the traffic problem in the northwest part of the city which links Druid Hill Avenue with McCulloh Street with the dual highway that has been built along the southwestern perimeter of Druid Hill Park. The City has spent considerable money to provide new roads through Druid Hill Park, but as I stated before, these are useless and remain clogged until the principal thoroughfares feeding them are fitted into the integrated street plan which was adopted after mature consideration. The ordinance, as enacted by the Council with its various amendments, was legislated only after the objections raised by those who opposed the bill had been carefully considered and weighed. Recently I conferred with Captains Kaste and Schmidt of the Police Department with regard to the safety measures that must be provided for the residents of the area. It was agreed that

every consideration would be given to all valid complaints. Some of the questions discussed were the following:

1. The Police Department assures the installation of traffic signals at suitable intersections ,thereby making it less hazardous to both school children and adults alike. Further, motorcycle officers will patrol these streets.

2. The Director of Public Works informs me that the streets will be adequately relighted almost the entire length of the two thoroughfares which will afford ample lighting of the streets and at the same time not cause annoyance to the people in their homes. The Director further states that Druid Hill Avenue will be resurfaced in such a manner as to reduce noise very materially.

3. Parking facilities have been provided on each of these one-way streets granting the right to park on one side to a non-restricted extent. On the restricted side of each street the restrictions will apply only between 7:30 and 10 a. m., and between 4 and 6 p. m.

As Mayor of Baltimore City I must necessarily deal with this and related problems from the point of view of the entire city rather than from a sectional viewpoint. While I can appreciate and am fully cognizant of the fact that traffic on Druid Hill Avenue and McCulloh Street will become increasingly heavy after the new plan, I am of the firm conviction that Ordinance No. 378 which now becomes law, will materially aid the traffic situation not only in the heavy populated northwestern section of the city but will synchronize with the entire plan for moving vehicular traffic, thus linking northwestern Baltimore with the central part of the city."

Your Honor, I made that statement after that hearing and took into consideration the objections the people made there, and particularly the matter of the lights and policemen patrolling the streets, and they wanted a state-

ment of this kind. They left my office satisfied, at least, partly satisfied, that they would not go into Court, and it was some time after—it was not the next day or the next week, but quite a long time after that, they went into Court, to my surprise, when I read it in the paper.

Q. Let me ask you if Mr. Smith was there? A. He was there.

Q. Mr. Mayor, this is an unsigned statement or this release? A. To the papers, yes, all the papers had it. Your paper had it.

Q. It was sent out over your signature to all the papers? A. Yes, sir.

Q. What day was it sent out? A. The day I signed the ordinance.

Q. You are very positive that you read a prepared statement to that committee and that this is the prepared statement? A. The prepared statement was written when I signed the ordinance. I spoke to that committee and told the committee I would take up any of their objections and I read that to them, the remarks they made and I made.

Q. I entirely misunderstood you, then, because I understood what you have said—Mr. Reporter, will you read back there as to whether his Honor said he read that statement to the committee? A. I did read the statement to the committee. It might not have been word for word that statement.

Q. I thought I asked you whether that was the statement that you read to the committee.

(The Court) I was under that impression at first, but I reached a little later on the conclusion that he made a statement to the Committee, and that it was the substance of what he read here.

(The Witness) That is right, Judge.

(The Court) I thought he said, when he started, that this is what he read to the committee.

(The Witness) That is right, Judge.

(Mr. Houston) I would like very much to clear that up.

(The Witness) I have cleared it up—

(Mr. Houston) Let me have it from the reporter, not from you, but from the reporter.

(Testimony read by the reporter as follows:)

“Q. Now, may I see what you are about to read? A. The statement I made when I signed the ordinance.

“Q. Was that the statement which you made when this delegation was before you? A. That is right.

“Q. Did you read that written statement at the time, sir? A. Yes, sir, not only the statement but they asked me—at the time I told them I was going to sign the bill they asked me if they could come back—they appeared to be satisfied and would not go to court on a bill, and later on they told me they probably would come back in the way of more traffic regulations, playground facilities, and other improvements there to help control the situation, and I told them they could come back at any time, that I would be willing to give them a hearing, and if I could help improve conditions at any time in that location I would be glad to do it.”

(The Witness) At that point, your Honor, there were two meetings. Mr. Templeton was there at one meeting, then I think the Councilman Edelman was there. When this was read over to another group, it was not a large group, it might have been one or two of a committee. It has been so far back I don't remember. I know the statement was made before a group. I don't think it was made the first time because I had an open hearing and I was prepared for them when they came the

second time, and that is when I read "I will sign the ordinance." I thought I was taking in the objections and satisfying them by putting it in writing that the city would see to it that the police department would patrol the street and the lights would be placed and it would be well illuminated, and we would take every precaution to protect the children of that district. They left and they said, "Can we come back again, Mr. Mayor?" I said, "Of course, if this thing becomes a traffic hazard my job is to protect the life and limb of every one," and with that they went out and I thought they were satisfied.

Q. Who was it you told about this matter of coming back, about the matter of protecting the life and limb of the children? A. I think it was the time that Mr. Templeton was there and I think Mr. Brown was there and the gentleman you pointed out was there, I am sure they were there.

Q. After that conference, what steps did you take to check up on the matter of protecting these children? A. That is when I called in Captain Kaste and Captain Schmidt and the director of Public Parks and the Engineering Department.

Q. Will you tell us, please, what was the date that the Committee came in to see you, if you remember, in relation to the day you signed the ordinance? A. I would not remember the dates.

Q. Mr. Mayor, are you a member of the City Planning Commission? A. Yes, sir.

Q. I will ask you, if as a member of the City Planning Planning Commission on November 12th, 1947? A. Yes.

Q. I will as you, if as a member of the City Planning Commission, you approved this master plan, department of Planning Master Street Plans? A. I doubt whether I was to the meeting, I don't go to all of the meetings.

Q. Well, you took the responsibility for it? A. No, I didn't take the responsibility for it. Why should I take the responsibility for the City Plans? I disagree with them a lot of times. That is a city ordinance and I have to study it.

Q. It is in the way of performance of the City Plan Commission, isn't it? A. Well, I disagreed with them lots of times.

Q. Can you say whether you disagree with this? A. I would have to sit down and study the maps or have someone explain them to me, before I could disagree with it. It does not have the names of streets or anything on it.

Q. You say it does not have the names of streets? A. Now, I see the streets.

Q. Do you see McCulloh Street? A. Yes, sir.

Q. And Druid Hill Avenue? A. Yes.

Q. Do you see the legend on the map about arterial connections? A. Yes, sir.

Q. Do you approve of this map showing that McCulloh Street and Druid Hill Avenue are designated as arterial connections?

(Question objected to; objection overruled.)

A. I am not an engineer, gentlemen, I have to get engineering advice. The Mayor runs for office and an engineer is picked because he studies engineering questions. I can't answer it.

(The Court) You don't know whether you do or not?

(The Witness) Whether I approve it?

(The Court) Yes. He asked did you approve the plan delineated on the map.

(The Witness) Your Honor, this plan was adopted by the previous administration, we inherited it.

Q. Yes, but you passed it November 12th, 1947, didn't you? A. Do you mean the City Council passed it?

Q. No, sir, approved by the Baltimore City Planning Commission. A. Well, the Planning Commission might have but that does not mean that the Mayor had.

Q. Are you a member of the City Planning Commission? A. Yes, but I don't go to all the meetings. It is impossible. I have to be at a meeting today, one at 11:30 and one at 12 o'clock, and I have to miss one today.

Q. Do you now want to disapprove of it? A. Knowing the engineers recommended it, I will be glad to support the engineers because I have confidence in them. If the City Planning Commission approved it, ninety-nine chances out of a hundred I would approve it because they went into a long study. I thought you were talking about a specific street, about a specific item, but if this is an overall traffic plan they have before it, I am for it.

(Mr. Houston) Your Honor, may we mark this as an exhibit now ?

(The Court) Yes.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 11.)

Q. Mr. Mayor, what is the difference between the designation of a street as a one-way street and an arterial highway? A. I wish you would ask the engineers those questions. They are embarrassing questions. I am Mayor and not an engineer.

Q. I will ask you, Mr. Mayor, if you wrote that letter? A. Which letter are you talking about?

(The Court) What is the date of it?

(Mr. Houston) February 26th, 1948.

A. Yes, if it is in the Journal, I wrote the letter.

Q. You said before at the outset of your testimony that you did not know about the fact this was part of the plan of the Baltimore Transit Company of reconversion from fixed wheel to free wheel? A. I did not say I did not know it was part of the plan to convert to buses. The way you put the question is this way, did you know this was part of the plan of the Baltimore Transit Company, that is what you asked me, you did not complete your sentence.

(The Court) The question was, as I recall it, did you know that this plan originated with the Baltimore Transit Company.

(The Witness) That is right, and I did not know that. I said it was from the other administration.

Q. I would like to read you this paragraph from your letter of February 26th, 1948, to the president and members of the City Council: "The establishment of St. Paul and Calvert Streets last June as one-way streets as the first step in a street program in connection with the Conversion plan of the Baltimore Transit Company furnished a dramatic demonstration of its value in expediting traffic, relieving congestion, and obtaining maximum use of existing facilities. It was the intention to designate other streets for one-way traffic shortly thereafter. Progress along this line, however, was interrupted when a stockholder sued the Transit Company. Although the stockholder's action was successfully resisted by the company's lawyers, with the cooperation of the then City Solicitor, Simon E. Sobeloff, the company saw fit to delay until after the decision of the Court of Appeals. That appeal has likewise been decided in the company's favor. A short delay was then thought desirable because of the fuel situation. This emergency will have been cleared up by the time the conversion to bus operation can be made. The city's traffic situation will not improve by delay, nor will further discussion help us. I am anxious to go ahead with the next step—the designation of Mc-

Culloh Street and Druid Hill Avenue for one-way traffic. The city has spent considerable money to provide new roads through Druid Hill Park, but these are useless and remain clogged until the principal thoroughfares feeding them are fitted into the integrated street plan which was adopted after mature consideration." That is your statement, Mr. Mayor? A. That is right.

(Mr. Houston) I ask that be marked as a Plaintiffs' exhibit.

(Paper referred to offered and received in evidence as Plaintiffs' Exhibit 12.)

(Mr. Houston) That is all.

(Testimony of the witness concluded.)

THOMAS J. SMITH,
1729 McCulloh Street

DIRECT EXAMINATION

By Mr. Houston:

Q. How long have you been living on McCulloh Street?

A. Thirty-five years.

Q. Are you a native Baltimorean? A. Sixty-six years, I am sixty-six years old; lived here all my life.

Q. Mr. Smith, has the neighborhood of Druid Hill Avenue and McCulloh Street been stabilized as a very desirable residential area ever since you can remember it? A. Ever since I can remember; yes, sir.

Q. Tell us what has been your experience on McCulloh Street, since McCulloh Street has been designated an arterial thoroughfare? A. Well, conditions are almost unbelievable there and the noise and the traffic on different occasions, I have taken count of the traffic at certain periods, and any period in the morning or at night, in the evening during the rush period, there are one

hundred cars, approximately one hundred cars passing in five minutes.

Q. Do you drive a car yourself? A. I do, yes.

Q. How long have you been driving? A. Twenty-eight years.

Q. What observation, if any, have you made as to the speed of the cars on McCulloh Street before and after its designation as an arterial thoroughfare? A. It is difficult to get across the street in the mornings, when you get out the line of traffic is so long. Where I live is between North Avenue and Lafayette Avenue. At present there are only lights at those streets.

(The Court) 1700 block is between where?

(The Witness) Between Laurens and Wilson. The nearest light is Lafayette Avenue on the south and North Avenue on the north. You go across the street after the cars back up at North Avenue, it takes you four or five minutes just to cross the street. That is for adults. For children, I wonder how they ever do get across. In the evenings at North Avenue the traffic is backed up there when the light changes for about three squares down. The other thing is that in the early morning and at nights—all that territory along there is on made land, all the old folks will tell you when that was a swamp or hollow, and those trucks coming down McCulloh Street, and I presume Druid Hill Avenue is the same, if you lived in an earthquake territory, you can realize what a tremor is. My house, I fear for it because of the fact it is being shaken down. There were some alterations I wanted to make, but I am afraid to make them because I am afraid the city will condemn the wall if I do anything to the house. I have had to rearrange the furniture in my house to keep the heavy furniture off the front of the house and have these trucks shake it down. Before one tremor is through, there comes another one. You can sit in our house and feel the vibrations. I wonder why

it has stood as long as it has. Of course, when I moved on McCulloh Street these conditions did not exist.

(The Court) How long ago was that?

(The Witness) 1913. Of course, it has grown considerably after that. After it was designated to be a one-way street way and after they opened up the Druid Hill Park entrance, it makes life miserable. You are afraid to sit out front in warm weather because you don't know when a car is coming up on the pavement and knock you in the house.

Q. Has your property assessment been increased? A. My assessment was increased in 1947, \$650.

Q. If you had known that McCulloh Street and Druid Hill Avenue were to be designated as one-way expressways, would you have protested the increase? A. I sure would have.

(Mr. Houston) Your witness.

(The Court) Didn't you have some inkling they might be designated as one-way streets?

(The Witness) There was something in the papers about it but there was nothing definite.

(The Court) It was not settled.

(The Witness) No, it was not settled. They had not decided about it. The Druid Hill Park arrangement was made before there was any decision as to Druid Hill Avenue and McCulloh Street being made one-way Streets.

CROSS-EXAMINATION

By Mr. O'Dunne:

Q. Apparently from what you say, the situation there where you live is pretty bad? A. It is.

Q. It could not be much worse? A. I should not like to see it worse. It will be worse when they finally designate it as a one-way street.

Q. When cars come up one hundred every five minutes, is that both ways or just one way? A. Right now that is both ways.

Q. When did you first learn that the city was thinking of making the streets one-way? A. Well, when I read it in the papers—oh, some time back—that they were considering it but they had not decided anything about what they were going to do.

Q. When did you first read that? A. About McCulloh Street I don't remember that.

Q. Was it over a year ago? A. I don't remember that.

Q. Was it before your property was reassessed? A. I don't think so.

Q. You knew there had been some talk about it before your property was reassessed, didn't you? A. Well, only what I read in the papers.

Q. Beg your pardon? A. Only what I read in the papers and you can't believe what you read in the papers.

Q. That was before your property was reassessed that you read it in the paper? A. Yes.

Q. When did you first know of the passage of this ordinance? A. Oh, I knew of the passage of the ordinance. I was one of the committee that waited on the Mayor to ask him not to sign it.

Q. So you knew it was approved in March of this year. A. I knew it was approved in March of this year.

Q. After that ordinance was passed, did you make any petition to the assessors' office to decrease your assessment? A. After that ordinance was passed, no, I did not. I did not pay the tax bill.

Q. You did not request that your assessment be lowered, did you? A. No, I did not, because I knew efforts were going to be taken to see if we couldn't have it

lowered. It was too late then. I knew when they send out an assessment unless it is objected to or reasons given within a certain time, it is too late.

Q. How did you know that, did your lawyer tell you that? A. No, my lawyers didn't tell me that. I have been owning a house and I have been reassessed several times, and I knew there was a limit on it.

Q. You are pretty familiar with the reassessment feature, are you? A. I wouldn't say I am familiar, but I know something about it.

Q. Then the answer to my question is that you did not make any protest as to your assessment? A. I did not.

Q. And the reason you did not do that— A. The reason I did not do it was because the limitation of the time for making a protest was past. Then I did not know that the conditions were going to be as they are.

Q. Have they changed since the passage of the ordinance? A. Oh, considerably so. The buses have been put on since the passage of the ordinance.

Q. Since March of 1948? A. Yes.

Q. You started to say that one of the reasons you did not protest was because you knew that something was going to be done to see if you all could not do something about the situation, or you expressed it in some way like that. When did you first know this suit was going to be instituted? A. Well, the Mayor said in his office, "I understand that if this case goes through you are going to enter suit against—no, "You are going to take it to court," I think were his words. He said it would not be any use to do that.

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(St. Tr. pp. 211-212):

MRS. LILLIE M. JACKSON,
1216 Druid Hill Avenue,

DIRECT EXAMINATION

By Mr. Houston:

Q. Are you a native Baltimorean? A. Born and reared here.

Q. How much time have you spent in the area we are now discussing, Druid Hill Avenue and McCulloh Street?

A. I was born in this area, lived there all my life with my parents and grandparents.

Q. Do you drive a car, Mrs. Jackson? A. I do.

Q. How long have you been driving? A. Since 1925.

Q. Have you observed any change in the traffic conditions on Druid Hill Avenue since March, 1948? A. I have.

Q. Will you state what they are? A. Druid Hill Avenue has been our residential section, Druid Hill Avenue and McCulloh Street, and the speed has always been a normal speed according to the traffic laws, but since Druid Hill Avenue has been designated as a one-way street, the traffic has increased and we have the heavy buses and the interstate buses coming through at night and the large trucks, and our houses on Druid Hill Avenue are old. We paid exorbitant prices for them by being the best residential community, we paid for the community, certainly not the buildings. Every wall in our house is cracked and it looks like—

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(St. Tr. pp. 212-214):

Q. Mrs. Jackson, what effect, if any, has it had on the physical property itself? A. The trucks and the large buses coming through jar our property to the extent that our ceilings are falling and we are in danger at any

time, it is old plaster, and it is heavy, not like the new housing, and if at any time the children—I have grown children and even grown persons, if that plaster would fall down—we have had a heavy bedroom ceiling to fall. Fortunately we were not in there. But you are in danger. My walls on the first floor are all cracked and this has all been definitely since these interstate buses and the trucks have been going up and down Druid Hill Avenue.

Q. What about the churches along Druid Hill Avenue and McCulloh Street? A. The Bethel African Methodist Church has our largest seating capacity and our most influential church. That church and things of that sort—

Q. Where is that located? A. On Druid Hill Avenue and Lanvale. It has a large stone front. In front of me is the Union Baptist Church, one of the oldest Baptist Churches in the city of Baltimore.

Q. Where is that? A. Right in the 1200 block of Druid Hill Avenue, with a very large congregation and Sunday School on Sunday morning and church services at eleven, afternoon and night, certainly Sunday has been our day on Druid Hill Avenue that we relax and where we can be at home and it is quiet. If you go home from Pennsylvania Avenue, it is just like starting out of hell into heaven, that's the way we feel about our community. We have organized a Northwestern Protective Association and as citizens, we have spent thousands of dollars in the Courts protesting the invasion of undesirable commercial activity in our community, showing how much we were perfectly willing to go into court to protect our residential community, and the city has cooperated in helping us to maintain this as a residential, church and school area. That is just what it is, densely populated. When there used to be one family houses, 1134 Druid Hill Avenue, where I was reared, we had just one family, our whole family occupied that house, but now these houses which were one family houses have been con-

verted into three to seven apartments because of the overcrowded conditions and the lot of the parents and their children and their grandchildren—

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(St. Tr. p. 215) :

Q. You are the president of the Baltimore Branch of the NAACP, are you not? A. I am.

Q. As the result of your position, are you in constant touch with churches and familiar with their membership? A. I am.

Q. Can you give us the approximate membership of Bethel Church? A. In the neighborhood of fifteen hundred to two thousand.

Q. What about the one immediately across from you? A. About one thousand or fifteen hundred.

Q. Are you a member of the Board of Trustees of Sharpe Street Church? A. Sharpe Street Memorial Methodist Church, that is one block from Druid Hill Avenue and Etting Street.

Q. How many members do you have there? A. We have about fifteen hundred. * * *

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(St. Tr. p. 216) :

Q. Is there a Trinity Baptist Church? A. There is a Trinity Baptist Church at Druid Hill Avenue and McMechen Street.

Q. What is the membership? A. I would say about five hundred.

Q. Is there a Metropolitan Baptist Church? A. The Metropolitan Baptist Church on McCulloh Street, in the 1500 block, on the corner of Mosher and McCulloh.

Q. And its membership? A. About a thousand members.

Q. Would you say that there are more colored churches in the particular area than any other comparable section of Baltimore? A. It is. There is eleven churches on Druid Hill Avenue and McCulloh and the immediate vicinity and nine schools.

* * * * *

(St. Tr. pp. 218-219):

Q. Let me ask you whether one of the persons who originally was contemplated as one of the plaintiffs here has been killed on McCulloh Street, Mr. Watkins? A. Yes, Mr. John Watkins, an old former resident, his parents and grandparents, he was killed at Whitelock and McCulloh Streets. The man was rushing up McCulloh Street and struck him and he never got up. He died.

Q. When was that approximately, was it this year? A. Oh, yes, in 1948. Early part of the summer I would say.

Q. Do you own a house on McCulloh Street? A. I do.

Q. Did you own a house on Franklin Street before Franklin Street was designated as an arterial thoroughfare? A. Yes.

Q. State where your house is on Franklin Street. A. 946 Franklin Street.

Q. Are you familiar with the area, that block 946 Franklin Street? A. I am.

Q. Are you familiar with what was the condition before the designation as a one-way street, of Franklin Street? A. I am.

(Mr. O'Dunne) I want to note my objection here. I think this is irrelevant.

(Mr. Houston) It is a question of common experience and common results.

(The Court) I think it is probably offered for comparison. Give you an exception. Overruled.

Q. What has been the experience of that block as to—
what was it first, residential? A. It was residential. * * *

* * * * *

(St. Tr. p. 220):

Q. What has been the history of the neighborhood in the 900 block Franklin Street, comparing its condition before the designation of Franklin Street, with an arterial thoroughfare and after its designation? A. It has become a rundown community, a change in tone of the residents. It has become more or less tenant property.

* * * * *

(St. Tr. pp. 220-221):

Q. I am coming to your taxes. Has your taxes been increased on Druid Hill Avenue? A. Yes, it has. In 1947 I paid \$150. In 1948, of course, I pay my taxes—

(The Court) Do you mean your assessment was \$150 or the tax was \$150?

(The Witness) My tax was \$150, my assessment was \$4300, and it went to \$6040, with a ground rent. It jumped from \$150 to \$200.86; \$50.85 increase in a year, with less peace and security.

* * * * *

(St. Tr. p. 222):

Q. You would have protested if you would have known this was going to be designated a one-way street? A. I say I would have protested. Even the \$50 raise I thought was too much.

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(St. Tr. pp. 224-225):

(The Court) Do you know anything specific about sales in the neighborhood? Have there been any sales recently?

(The Witness) Yes, there was a house next door to me sold.

(The Court) Would that be 1208?

(The Witness) 1218. I would like to tell you about that.

(The Court) You say that has been sold.

(The Witness) It has been sold. The overcrowded condition has forced my people to pay any price that unscrupulous real estate men ask, to live with their children. Of course, there are people who migrate here and who are anxious to get in a better section of the city than where I live, and they crowd into these places.

(The Court) What about this particular house?

(The Witness) I am saying this particular house was bought by out of town people, at least out of town people are living in it —

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(St. Tr. pp. 228-229):

JOHN N. COTTON,
2337 Ivy Avenue

DIRECT EXAMINATION

By Mr. Houston

Q. Mr. Cotton, you are employed in the Public Schools? A. I am.

Q. Will you state your position? A. I am principal of the Junior High School 130 located at Lafayette Avenue and McCulloh Street.

Q. How many children do you have enrolled in the school? A. Today we have 1,567.

Q. How many of those children have to cross Druid Hill Avenue and McCulloh Street? A. Four out of every five. That makes a little over 1220 that cross every day to and from school.

Q. What are the traffic conditions? A. We have a traffic light at Lafayette Avenue and McCulloh Street. Just recently we have a police officer stationed at Lanvale and McCulloh Streets from 8:45 in the morning until 9 o'clock, and usually from 2:30 until 3 o'clock.

Q. Were there any traffic policemen stationed there before June 10th, 1948? A. No. We had a traffic officer at the light at Lafayette Avenue and McCulloh Street but we felt we should have a traffic officer at Lanvale Street and McCulloh and we did speak to the sergeant on the post and they began to change the traffic officer from McCulloh and Lafayette Avenue to Lanvale and McCulloh Street.

* * * * *

(St. Tr. p. 230):

Q. What would you say as to the hazards, if any, for children coming to your school and going from your school? A. The hazards have been increased since the bus line has been established. I mean by that this. The regulation that the bus is to be pulled up to the curb to discharge passengers, automobiles and trucks can pass on the other side of the bus while the bus is discharging passengers. That means that we have to be exceedingly cautious of the boys and girls crossing the street because they cannot see the automobiles coming. Fortunately we have been able to have it so that no accidents have happened. But every time I hear the brakes screeching or some noise, I am expecting to hear about some accident.

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(St. Tr. p. 231):

ALEXANDER J. ALLEN,
842 Peach Orchard Lane

DIRECT EXAMINATION

By Mr. Houston:

Q. Mr. Allen, are you the secretary of the Baltimore Urban League? A. Yes.

Q. And you have been for how long? A. Since 1942 in the capacity of industrial secretary. Since 1945 as executive secretary.

Q. Mr. Allen, as industrial secretary of the Urban League, have you had occasion to make a study of housing conditions in Baltimore?

* * * * *

(St. Tr. pp. 234-235):

Q. Did the Urban League make a study of marginal neighborhoods in that particular section? A. Yes, we did.

Q. By marginal neighborhoods, I mean the northwestern section. A. Yes, the largest negro community in Baltimore is in the northwestern.

Q. Does that include McCulloh Street and Druid Hill Avenue? A. That includes McCulloh Street and Druid Hill Avenue. Up until 1945 the western boundary for that area was Fulton Avenue. Beginning early in the spring of 1945, colored people began to move into Fulton Avenue and beyond Fulton Avenue, and that movement has continued up to the present time. We made a study of the housing prices in Fulton Avenue area in the latter part of 1945, and the first part of 1946, to get some indication of the extent to which prices were increasing because housing was now being sold to colored people rather than to white persons. We based the survey on the record of the sales in the Record Office of the Court House, as indicated by the Federal and State sales records, and we got that information, indicating on the housing study an average increase had taken place of 175% during a period in which Mr. C. Philip Pitt, the secretary of the Baltimore Real Estate Board, informed us that the general—

* * * * *

(St. Tr. pp. 236-238):

Q. Did you also study the matter of new construction?

A. Yes, we have. I am not citing now Urban League studies, but I can read here from a report of the Government's Commission on problems affecting the negro population, which was done by persons expert in this field, indicating—I cannot read the exact quotation, but I can tell you what it says.

Q. If you summarize it, it will be sufficient. A. Doctor Ivan MacDougall, Professor of Sociology and Economics of Johns Hopkins University and Goucher College, made a study in 1937 which indicated in the history of the city less than 150 new houses had been built for negro occupants. That is related in the conclusion of the study.

(The Court) Do you mean within the city limits or city and suburban districts?

(The Witness) In surveying the city's negro housing situation, Doctor MacDougall found—

(The Court) Wouldn't you say more than that number were built in the Cherry Hill section alone?

(The Witness) That is since 1947. In Cherry Hill approximately 800 houses were built by private enterprise during the war, and perhaps a hundred more since the war. But the point which I think is important is that private building at present is proceeding in Baltimore at a rate exceeding five thousand dwelling units per year, whereas less than one hundred units are being built for negro occupants, and this is the Baltimore area as well as the city limits.

(The Court) I think that is probably true of private capital but that does not take into account that large units were built by Federal capital.

(The Witness) It should be said that no housing at all has been built since the war by public auspices. Our State government does not build houses and our municipi-

pal government does not build houses, and there has been no Federal money since the funds were exhausted, so that there has been no Federal housing built.

Q. In connection with these studies, did you make a study of the population density? A. We don't have figures that I can quote on population density, but I can say this, and I can cite references here again in the Government's Commission report to the same effect, that Baltimore is even worse in terms of congestion and density than most cities, so far as negro population is concerned, because Baltimore has an area which may be indicated as the colored area, which is in the shape of a wedge or slice of pie, which has access to the periphery of the City and normal progression and growth is possible into the counties and into the suburban areas.

Q. That is as to other cities. In Baltimore, however, there is another reason, isn't there? A. The major negro population centers are islands which leave very little expansion. I can give you something on vacancy rates, if that would be pertinent.

* * * * *

(St. Tr. pp. 238-240):

Q. Have you made a study of the recreational facilities for the negro population of Baltimore in this section?

A. We have made no independent inquiry on the part of the Urban League, but from general familiarity with the study done by the National Recreational Association for the entire city of Baltimore in 1943, under the general supervision of the State Plan Commission.

Q. What were the findings? A. The findings were that Baltimore, as a whole, was far below standard in the terms of the amount of built areas and the types and quality of its recreational outlets, but it was exceedingly below standard so far as negro population is concerned.

Q. What about the particular area in which Druid Hill Avenue and McCulloh Street are located? A. That same thing is true there, and perhaps concentrated because of the amount of concentration and congestion.

(The Court) That would not apply to the northern part of the section because you have all of Druid Hill Park there, which is certainly not below standard.

(The Witness) That is true.

(The Court) Probably the best in the city.

(The Witness) To the extent that is available for negro use, but there are some severe limits there.

(The Court) I have seen the football grounds there and things like that, and I think they compare very favorably with any park in the city.

(The Witness) Druid Hill Park to some extent is available.

(The Court) It seems very satisfactory to me. It may not be as large as Clifton Park, but certainly the facilities are equal with Clifton Park facilities.

(The Witness) I am not sure I made myself clear. I was referring to the fact of the present administration of the Park Department. All of those facilities are not available for the use of the colored citizens.

(The Court) The ones I speak of are.

(The Witness) Yes, some are.

Q. (By Mr. Houston) Those that are available, are they adequate to take care of the population? A. No, they are not, and that can be substantiated by the study to which I referred.

* * * * *

(St. Tr. pp. 241-242):

AUGUSTA T. CHISSELL

DIRECT EXAMINATION

By Mr. Houston:

Q. Your husband is a physician, resident in this area?

A. Yes.

Q. Will you tell exactly where you live? A. At 1534
Druid Hill Avenue.

Q. How long have you lived there? A. Around twenty
years.

Q. Before that were you still living on Druid Hill
Avenue? A. We moved from 23rd Street to Druid Hill
Avenue, to 1534.

Q. Mrs. Chissell, you heard Mrs. Jackson testify, did
you not, as to conditions there on Druid Hill Avenue,
traffic conditions since the ordinance was passed naming
it as a one-way street? A. Yes.

Q. Is your testimony the same as Mrs. Jackson's as to
the inconveniences and the disturbances? A. Yes, they
are dreadful.

* * * * *

(St. Tr. pp. 242-243):

Q. Did you have any experience on Druid Hill Avenue
about a week ago? A. Do you mean pertaining to my-
self?

Q. Yes. A. That was McCulloh and McMechen Streets.
I had an occasion to be riding on the McCulloh Street
bus one day and when I got off at McCulloh and Mc-
Mechen Streets, I made it my business to be the first one
off because I was in a hurry, and while the other passen-
gers were being discharged I started across the street,
and just as I started across the street an automobile
whizzed right by me. I could have touched it. It nearly
frightened me to death. I think the buses have caused

a hazardous and really tragic condition, especially at the intersections. You take Druid Hill Avenue and Mc-Mechen Street, the buses stop and the cars stop to discharge passengers, and I have been accustomed to that, and that is the reason when I get off of the bus at McCulloh Street I started right across.

* * * * *

(St. Tr. p. 246):

Q. In 1947, the assessment for 1326 Druid Hill Avenue was \$4,338, with a total tax bill of \$128.17; in 1948 the assessment was \$5,080, with a total tax bill of \$162.93. Had you known at the time your assessment was raised that Druid Hill Avenue was going to be designated as a one-way express street, would you have protested the increase in the assessment? A. Why certainly. The property had depreciated.

* * * * *

(St. Tr. pp. 248-278):

M. FRANK FITZPATRICK

DIRECT EXAMINATION

By Mr. Houston:

Q. Will you please state your official position? A. Director of the Department of Assessments.

Q. You have been in that position how long? A. Since June 1st, 1937.

Q. What are your duties as director of the department of assessments? A. To supervise the assessing of all real and personal property in the city of Baltimore.

Q. What procedure have you followed when a person's assessment has been changed with reference to giving him an opportunity to be heard? A. When his assessment has been raised, or changed, there is a notice mailed from our department stating the former and proposed assessments, and giving him fifteen days in which to

reply, and there are certain interrogatories attached to that notice which he can fill out and return at the time.

Q. What elements do you consider in determining the assessment of residential property generally? A. Well, the main factor, the real factor in residential property is the market price, the purchase price.

Q. And you reach that by what? A. By an analysis of the sales in the neighborhood.

Q. Did you have occasion during the year 1947 to re-appraise the values of real property in McCulloh Street and Druid Hill Avenue north of Fulton Avenue? A. Yes, sir.

Q. Did you appraise the real property in that area which was being used for residential purposes? A. For all purposes.

Q. And as to the residential property in that area, did you follow the same system for reappraisal that you followed in the rest of the city for residential property? A. Yes, sir.

Q. Are there any elements that go into the market value except sales? A. Well, the main factor, as far as market value is concerned, are sales and if there are very few sales by which we can be governed, then we will have to attempt to analyze the rents paid for the property and see what a person has paid for such property based on the rents, the potential rent or available rent.

Q. When you consider potential rents or actual rents, do you also consider the nature of the neighborhood as to whether any particular uses are being made of the neighborhood which might affect its desirability for residential property? A. Such conditions are usually reflected in the selling price, the conditions are usually reflected in the selling price of the properties in that neighborhood.

Q. But suppose that the area is so recent that there have not been the number of sales which would give you or reflect the change in the use, would you still consider the use, particular use to which the property is being made, or the neighborhood is being made, in determining its effect upon property? A. Yes. For instance, we are in a neighborhood in which some drastic change has taken place and there are not any sales, of course, we will attempt to make a study of the area, we will try to compare that with some section that has had a similar condition affecting it, and see what the effect has been in that other area, and maybe act accordingly.

Q. Let me go to this matter of Franklin Street. Have you had occasion to consider the use of Franklin Street as an arterial thoroughfare in making your appraisals of property in that area?

(Question objected to; objection overruled.)

A. At the present time every assessment that we have made, whether it is in an area that is subject to such conditions as Franklin Street or Mulberry Street, we feel that there is only one determining factor at the present time which governs the value of real property. Everything else is subordinate to it. The main thing at this time is the desire for shelter, and that predominates in every instance, and it is hard to say whether or not any one way street would affect it. It is hard for us to come to a definite conclusion. We may be able to surmise, but it is evident even in Franklin and Mulberry Streets that in our reappraisal we found values were always higher than they were the last time we assessed it.

Q. Did you find, nevertheless, although the values are higher there, they did not represent an increase which is proportionate to the rest of the city? A. I think the increases throughout the city have been for the most part on a par, with the exception maybe of what we term luxury homes. Luxury homes are, of course, such as we have in Guilford and Homeland, which is usually slower

to respond to any increase, but when the increase takes place it is more accelerated than in any other section.

Q. Let me ask you flatly. In the reappraisal—

(The Court) You mean it is more pronounced, don't you, not that it is more accelerated?

(The Witness) I mean it is slower starting but it does not take long for it to get up to the same condition that exists as far as other properties are concerned.

Q. Let me ask you this. Did anybody in the city government notify you or your department that Druid Hill Avenue and McCulloh Street were to be one-way expressways when you were making your appraisal in 1947?

A. No, sir.

Q. If you had been so notified that the plan of the city was to name Druid Hill Avenue and McCulloh Street as one-way expressways in 1947, at the time you were making your appraisal, would you have taken that into consideration?

(Question objected to.)

(The Court) Just a minute. Is it a fact that they are one-way expressways?

(Mr. Houston) That is the way I understand they have been so designated.

(The Court) They are one-way arterial streets, aren't they?

(Mr. Houston) That is right.

(The Court) Don't we consider an expressway a street to which access is limited? That has been the general use of the term in Baltimore I think. For instance, what was called an expressway was the street that was proposed between Mulberry and Franklin Streets, and to be below the area of the rest of the street so there could not be any access to it from cross streets.

(Mr. Houston) I will strike that out because I don't want to confuse the record.

Q. If you had been advised that the city had made its plan, that is, the plan to make Druid Hill Avenue and McCulloh Street one-way arterial thoroughfares in 1947, at the time that you made your reappraisal of property on Druid Hill Avenue and McCulloh Street, would you have taken that factor into consideration in reaching your assessment?

(Mr. O'Dunne) I object, your Honor. I want to object on the ground that the assessment is made as of a certain period and that the market value of the property is appraised as of that time. Now, unless this question includes a date when he was told that the highways were devoted to one-way operation and what their effect would be, I don't think that the question is a legitimate question. I object to it on that ground.

(Mr. Houston) My theory of this case, your Honor, is that in 1946 the City had already been committed to making Druid Hill Avenue and McCulloh Street one-way arterial thoroughfares just as rapidly as possible. They had spent \$400,000 and the testimony here is that the dual highway through the park has been closed off because they were not made. In January, 1948, appeared the ordinance introducing this plan in the City of Baltimore, it was all part of one transaction. It is part of our case and basic to our case, and if it is true that naming these streets as one-way arterial thoroughfares would reduce the value of the residential property and therefore be reflected in the assessment, that for the city to withhold that information from the people and from its own officers making the reappraisals, constitutes a fraud on the property owners to raise their assessments and withholding that information. Therefore, it is particularly material for me to find out if he had had that information would he have taken it into consideration, because that is the foundation of the testimony of experts that inevi-

tably it follows when you designate a street as a one-way arterial thoroughfare, its value for residential purposes declines.

(The Court) Of course, he could not know what it would be because he would have to have the ordinance and that ordinance was not passed until 1948, was it?

(Mr. O'Dunne) That is right.

(Mr. Houston) Except that that might be true under an ordinary situation. The ordinance, however, is simply a formalization of the plan. The plan itself was accepted and adopted by the city. We have it here in the Riders Digest, which the City Planning Commission had adopted.

(The Court) I do not think you can do it that way, Mr. Houston. I think what you can do possibly is to recite to him the known facts in the case at the time of the assessment and ask him if he knew those facts. I think that is as much as you can do.

(Mr. Houston) All right, sir.

Q. Mr. Fitzpatrick, if you had known that the city had approved the plan of making Druid Hill Avenue and McCulloh Street as one-way streets, that this plan was also the plan or part of a plan of the Baltimore Transit Company for reconversion of its fixed wheel traffic to free wheel traffic, and that as a part of that plan a dual highway had been built through the western edge of Druid Hill Park at a cost of \$400,000, and that this dual highway through Druid Hill Park was useless practically as a dual highway unless Druid Hill Avenue and McCulloh Street were named as one-way arterial thoroughfares, and if you knew that there was heavy pressure on the city authorities to have these streets named as one-way arterial thoroughfares, especially in view of the completion of that dual highway, would you then have taken those facts in consideration in determining your assessment of the real property, residential property on Druid Hill Avenue and McCulloh Street in the year 1947?

(Mr. O'Dunne) I object.

(The Court) Overruled.

A. I think, Mr. Houston, that I would have to explain our policy. The law calls for full cash value on the day of finality. We must abide by that, but at the present time prices throughout the city of all types have skyrocketed to such an extent that when we set out to cover the city, under the five district plan, we adopted as a base sale prices indicating what seemed the intrinsic value of the property, and therefore our conception of the full cash value were the sale prices of the year 1942, and the early part of 1943. Our assessments in the area spoken of will reflect the sales prices of that time, so that if anything occurred in the year 1948 it could hardly affect the market price of 1942 and 1943.

Q. Let me ask you this. Why did you take the year 1942-1943 when you were making an assessment in 1947?

A. We started out in the first district in the year 1942. There had been during the 1930's, as everyone knows, a tremendous drop in prices and the year 1942 was the last year in which there had been any very great extent of home building, and it seemed that the prices paid at that time before there were any, you might say, inflationary trends, that we considered that year would be the fairest year to hold as being the intrinsic value of the property, and we held to that during the following cycles we went through.

Q. In other words, you are saying now, although you made your assessments on Druid Hill Avenue and McCulloh Street in 1947, you still took the values, so far as sales were concerned in 1942 and 1943? A. Yes, sir.

Q. You accepted the sales prices as reflecting the fair market value of an open, unrestricted market, is that correct? A. That is right.

Q. Did you take into consideration that along Druid Hill Avenue and McCulloh Street you do not have an open unrestricted market? A. In 1942 and 1943 we did.

Q. Did you take into consideration the fact that so far as negroes purchasing property was concerned, they could not purchase property all over the city and were restricted to certain areas?

(Question objected to.)

(The Court) I really do not see how that throws any light on it.

(Mr. Houston) It throws this much light on it. We have had the testimony of 175% immediate increase in the property values when they are turned over. We have already had evidence of a restricted market. He talks about the matter of sales prices, and I respectfully submit on an open, unrestricted market you would never get the prices you get that Druid Hill Avenue and McCulloh Street have been getting for property on Druid Hill Avenue and McCulloh Street. I just want to get the basis of his assessments.

(The Court) That is somewhat debatable in this way. There has not been an unrestricted market in Baltimore since 1941 or 1942 because you could not get materials to build houses.

(Mr. Houston) But such as we have you still have definite markets.

(The Court) That might be, but I think it is rather hard to figure that with respect to this property. When you start to compare Druid Hill Avenue property, for instance, with property around Lafayette Square, it is all in the same category.

(Mr. Houston) May I make this tender because I think I can develop right now he is going to testify that he does consider it?

(The Court) I do not think it is pertinent.

(Mr. Houston) Let me strike that question and ask you this.

Q. Did you consider the fact in 1947 the real estate market—that the negro real estate market was artificially restricted by restrictive covenants?

(Mr. O'Dunne) I object. I have not seen one restrictive covenant in evidence.

(The Court) I will sustain the objection and give you an exception on it.

Q. Do you realize that there may be a shelter premium paid for homes which is above the ordinary real estate market? A. We recognize that to a very great extent. That is the reason we took a back year instead of the current year.

Q. Would you recognize that there is a shelter premium paid for homes on McCulloh Street and Druid Hill Avenue over and above the shelter premium which might be paid for homes generally throughout the city? A. I find there is a shelter premium paid every place, but I would say that in cases where negroes have to buy homes the prices are usually higher when they are being changed—when there is a transition from a white to a colored neighborhood.

Q. Did you consider that the designation of the street as a one-way arterial thoroughfare affects the street, affects the property, the value of the property for assessment purposes, for residential property? A. We cannot anticipate values, we have to follow them. If you want my personal opinion, it should have an affect on properties, but we would have to follow that effect. We would take the conditions as they exist at the time we make the assessment.

Q. So, if you had the information which I have just given you as the state of affairs in the City Government as to its planning and as to partially effecting its plan through the building of this proposed new highway, you say you would or would not have taken that into

consideration? A. When we considered the basis we use for our assessment, I think we would not have deviated from that in the slightest.

(Mr. Houston) That is all.

CROSS-EXAMINATION

By Mr. O'Dunne:

Q. Mr. Fitzpatrick, by using as a norm the sales in 1942 for what assessments should be in 1947, as opposed to using the sales in 1947, did that have the effect of raising or lowering the amount of the assessment? A. In every instance it increased the price because, if you will permit me to use the figures, in the year 1931 the real property basis in Baltimore city was \$1,201,000,000; the price decreased during the entire 30's, so that it was the year 1947 before the real property basis again reached \$1,200,000,000 despite the fact that during that period there had been erected a total of \$147,000,000 worth of new improvements.

Q. So, actually, if you had used as a norm sales in 1947, the assessments would have been raised even more; is that right? A. That is right.

Q. By using the 1942 sales, the property owner got a break so to speak, is that right? A. Yes.

Q. Can you tell the Court the circumstances in which you happened to assess in the 1200, 1300, 1400, 1500 block Druid Hill Avenue and the 1700 to the 2500 block McCulloh Street, will you tell us the circumstances under which that property was assessed? A. The city is divided into five districts in accordance with an act passed by the General Assembly in the year 1943—

Q. Are those five districts reflected on this map? A. This map shows the five districts that we have laid out for that.

(Mr. O'Dunne) I would like to have this marked.

(The Court) Very well.

(Map referred to offered and received in evidence as Defendant's Exhibit 5.)

Q. Can you see this map from there, Mr. Fitzpatrick?
A. Yes.

Q. Can you tell the Court with reference to that map where this area in question is located? A. It is known as the 14th Ward and also as the 11th and 17th Ward, right in the center of the map.

Q. Well, now, will you explain the procedure under which you assess property in the city, that is to say, do you assess all the property every year or what happened? A. No, we divided into five districts. That map is rolled a little bit. The legend shows in the lower left-hand corner each district, most of the districts are contiguous areas, and in trying to arrange so that there is about an equal amount of property in each area—

Q. So that in other words, you reassess one-fifth of the city every year? A. That is right.

Q. So at the end of five years— A. The cycle is completed.

Q. So far as the year 1947 is concerned, were the properties in the blocks I have mentioned on Druid Hill Avenue and McCulloh Street taken out of order or was that the year they were to come up for reassessment? A. The 14th Ward assessment was a year lower than the 17th and the 11th, the 11th and 17th were assessed in the year 1948. On Druid Hill Avenue the 1200 and 1300 blocks are in the 11th and 17th wards, the dividing line there is Lafayette Avenue. The 1400 block is above Lafayette Avenue. That is the 14th ward.

Q. 1300 block of Druid Hill Avenue, that was— A. Druid Hill Avenue was also the dividing line between the 11th and the 17th wards, so that the west side of

Druid Hill Avenue in the 1200 and 1300 blocks are in the 17th ward and the east side in the 11th ward?

(The Court) I did not understand you to answer Mr. O'Dunne's question. Was that assessment out of order so far as the five year plan was concerned?

(The Witness) No, we just completed our five year plan.

(The Court) In other words, nobody there was assessed within five years of the time they had been assessed before, is that right?

(The Witness) That is right.

Q. (By Mr. O'Dunne) Mr. Fitzpatrick, is it customary, in your office which is charged the assessment of property in the city, for other departments to give you notice of any improvements they might contemplate, so that you can consider those improvements in connection with your assessments? A. The only time we are notified is that under the new charter we are also charged with the condemnation of property, which had been a function of the Commissioner for Opening Streets, and Highways will then submit a preliminary plat to us that they intend to open or widen a street. Other than that, we are not governed by any act of any other department.

Q. Did you make any effort, Mr. Fitzpatrick, as the assessor of Baltimore City, to conceal the fact from people whose properties were to be reassessed, there was to be any improvement on Druid Hill Avenue and McCulloh Street? A. No, no one came to the office. If you came to the office or anyone asking questions, we were perfectly willing to answer them at all times. Our records are always open to the public, the law requires them to be open to the public. If anyone asks us now what section we are going to review for the year 1950, we will tell them.

Q. Did you make any effort to conceal from anyone, until it was too late for them to appeal the assessment,

the fact that McCulloh Street and Druid Hill Avenue would be made into one-way streets? A. No. Every notice would be mailed out and return date thereon prior to the first day of October.

Q. Did you hide from these people any information with respect to their assessments? A. No.

Q. Mr. Fitzpatrick, once an assessment is made—I think you said there are twenty days in which an appeal can be taken from an assessment. To whom is that appeal taken? A. To the Board of Municipal Zoning Appeals.

Q. If that appeal is not taken within twenty days, are the persons whose properties are reassessed powerless to do anything about that reassessment for the next five years? A. Not for the next five years. For that particular year they may at any time file a petition to the Department of Assessments prior to the first day of July, asking for a review for the next taxable year. We will make that particular examination and notify them on the first day of October of what action we have taken.

Q. If a petition is filed for review, do you consider other factors that may have intervened between— A. We take the facts as we find them on examination on that petition.

(The Court) Take the present case; anybody who is a party to this case or any other person out in that section that you reassessed in 1947, could come in this year before the first of July and appeal to have the assessment reduced, could they not?

(The Witness) Yes.

(The Court) In fact, they can do that anywhere in the city, can't they?

(The Witness) Any time of the year.

REDIRECT EXAMINATION

By Mr. Houston:

Q. That would not give them any relief, however, as to the 1947 assessment, would it? A. No, not for the year they filed the appeal.

Q. So that if the action in naming Druid Hill Avenue and McCulloh Street one-way arterial thoroughfares did not actually go through the City Council until more than twenty days after your assessment, then that assessment would be fixed for that particular year and there could be no relief by administrative proceedings?

(Mr. O'Dunne) I object to that. I think the date the ordinance went through the City Council has nothing to do with it.

(The Court) I don't know as I know what Mr. Houston means. I think he means within the current year this Ordinance became effective, this plan, whatever it was, came twenty days too late for the people in that district to do anything by the way of appeal.

(Mr. O'Dunne) No, the ordinance was passed in March, 1948.

(The Court) Then it does not apply to this case.

(Mr. Houston) This is our theory, your Honor. Our theory is that the city had made up its mind and was committed to naming these streets as one-way arterial thoroughfares—

(The Court) When?

(Mr. Houston) It had made up its mind in 1946 and was committed to it. Then in 1947, it had the assessment raised. Knowing all of this, and they all had started on the execution of the plan because we say it cannot be separated, then it did not put the thing through so as to give the people opportunity for a legal test, because, as

Mrs. Jackson testified, the question became in the paper, at least, whether they were going to put it up on Madison Avenue.

(The Court) As a matter of fact, you had until the 1st day of July in 1947 to appeal the assessment.

(Mr. Houston) No, in 1948. The assessment did not come out until 1947 and the ordinance was in March, 1948. It would only be prospective for the next year.

(The Court) Oh, no.

(Mr. Houston) Yes, sir. You could not go back and make it retroactive.

(The Court) You could not do that, but it would be for the assessable basis as of October 1st, 1947. Of course, it would be for the next year.

(Mr. Houston) But then they would owe the taxes for 1947 and 1948, and there could be no relief in that.

(The Court) But you could not get back there anyhow.

(Mr. Houston) You could have if you had been familiar and they had disclosed this fact.

(The Court) What is the date you think they should have disclosed it?

(Mr. Houston) I think they should have done it at the time the assessment went through. I don't think the city can say the right hand does not know what the left hand is doing. I think it is all part of one governmental agency. I think there is a positive duty, under those circumstances, to acquaint the assessor with the facts and to take those facts into consideration.

(The Court) He has told you he could not assess it prospectively.

(Mr. Houston) Then it gets down to the question—because I was going after that on his statement, of the total valuation.

(The Court) What is the question, Mr. Goetz?

(Question read by the reporter.)

(The Court) I think you will have to change the question. I will sustain the objection.

Q. Let me ask it this way: When is the property taxed, as of what date? A. Do you mean when our tax is due?

Q. Yes. A. January 1st.

Q. So that when did your assessment, increase of assessment made in 1947 become effective as a basis for the taxes January 1st, 1948? A. On October 1st the assessments are officially concluded.

Q. And that assessment was used as a base for the tax which was assessed for January 1st, 1948? A. Yes.

Q. And any petition that was filed on July 1st, on or before July 1st, 1948, would not affect the tax which was assessed January 1, 1948, but could only effect the tax to be assessed January 1, 1949; is that correct? A. That is correct.

(The Court) I did not get your explanation of the twenty days.

(The Witness) The twenty days notice means that we have reviewed the property and that it becomes official on the first day of October and they have the right of appeal from our decision from the first day of October to the Board of Municipal Appeals.

Q. You have stated the total valuation of the City of Baltimore in 1931, is that correct? A. Yes.

Q. And you stated that was \$1,470,000,000? A. No. I stated it was \$1,201,000,000.

Q. And I understand you to say that fell? A. It fell to such an extent that it was not reached again until 1947.

Q. Can you tell me whether the property in Druid Hill Avenue and McCulloh Street fell? A. In every section of the city. Most people don't know when their property is reduced. If we reduce property we don't give them any notice because the very fact of our not giving them notice is to invalidate the assessment and if they would want the assessment invalidated, it would go to a higher figure, so we don't send a notice when we reduce property.

Q. That isn't my question. A. That is the reason I say most people don't know that the property has been reduced. But I could not say that the property 1302 Druid Hill Avenue was reduced, but the chances are that in every section of the city in which we went property was reduced.

Q. But you won't say that this particular restricted area of Druid Hill Avenue and McCulloh Street, as a negro residential area, the property fell, would you? A. Undoubtedly it did. I haven't the figures before me to say what happened, but the chances are inasmuch as we reduced property all over the city that we reduced it there also.

Q. Do you want to say or are you ready to say that the sales prices of property for negro residential property on Druid Hill Avenue and McCulloh Street fell during the 30's? A. It fell every place during the 30's.

Q. You are willing to say it fell there during the 30's? A. Yes.

Q. Are you prepared to say how much? A. No, I am not prepared to say how much. I would have to have figures before me.

Q. Let me ask you this question: Are you prepared to say that the prices of negro residential property on

Druid Hill Avenue and McCulloh Street did not reach the 1931 prices until 1947? A. I would not say in the year 1947, no. It undoubtedly reached them again some time between 1942 and 1947.

Q. Are you willing to say— A. There was a steady reduction from 1931 until 1939. In the year 1940 was the first increase in the assessable real property basis during all of that time and the increase was only \$600,000. Every year after that the increase was slightly more. In 1947 it was \$82,000,000. At least for 1948 it was \$82,000,000, and for 1949 it was \$90,000,000. It had increased from \$600,000 increase in 1940 up to \$80,000,000 and \$90,000,000.

Q. That still isn't my question. My question is, are you prepared to say that the prices, market value prices as reflected in sales of negro residential property on Druid Hill Avenue and McCulloh Street, from Fulton Avenue north, did not reach the 1931 prices until 1942?

(The Court) You don't mean Fulton Avenue north.

Q. I mean Dolphin Street north, it did not reach the 1931 sales prices until 1942? A. I would say that the trend was. I cannot pick out any particular property. I refuse to pick out any particular property, but I can take the general trend of values, which decreased during the 30's, then started to rise again in the 40's, and this is most likely applicable for the entire city, but I am not going to cite any particular property.

Q. By not citing any particular property, you mean not citing any particular area, because I am not asking you about any particular property? A. Any particular area, yes. I am not going to make any statement unless I have figures before me.

Q. Will you tell me in the law where your standard is that you take the actual present value— A. Section 11 of Article 81 says the property shall be assessed at the full cash value on the day of finality.

Q. Is that the Maryland Code? A. That is the Maryland Code?

Q. What is the article? A. Article 81, section 11.

Q. (Reading) "Except as herein provided, all property directed in this year to be assessed shall be assessed at the full cash value thereof on the date of finality." Now, I understand your interpretation of that is that in 1947 you assessed on the basis of the sales in 1942 and 1943?

A. My conception of the full cash value was the 1942 and 1943 sales.

Q. As the value in 1947. A. Yes.

(Mr. Houston) That is all.

(Testimony of the witness concluded.)

(St. Tr. p. 279):

MILTON P. BROWN,
603 Avondale Road

DIRECT EXAMINATION

By Mr. Houston:

* * * * *

(St. Tr. pp. 280-282):

Q. As part of your work, have you conducted a survey and supervised a survey to determine the experience, real estate experience with reference to one-way streets, arterial thoroughfares, on residential properties in Baltimore? A. Yes, a heavily traveled traffic street.

Q. Has it included a comparison of values of the types of houses found on Druid Hill Avenue and McCulloh Street? A. That is correct.

Q. Was that by an inspection of the City records as well as house to house canvas? A. It was both.

Q. For whom were you making that study in connection with the preparation of this case? A. We were

making it at the request of the citizens speedway committee.

Q. Under whose direction were you making the study?
A. Under Mr. Frederick M. Babcock.

Q. Do you recognize Mr. Babcock here today? A. Yes, Mr. Babcock is sitting there in the back seat.

Q. Would you tell us what details you covered in your survey? A. On our house to house survey the following questions were asked of the individuals and residents of that particular section: First of all, we gave the address, the date of the interview, the person interviewed, the type of dwelling, the material, the age and yard space, the number of stories and the number of of rooms. Under use, the income, whether it was owner occupied and the income weekly or monthly and the rental, whether it was a rental property, income weekly or monthly, or commercial value of apartments, rooming houses, or other uses. Under sales price, checked the previous sales price, the last sales price. Under length of occupancy, whether it was owner rented or tenant occupied, the number of years and the number of months. Together with the comments which were entered at the discretion of the interviewer.

Q. Did you also make a comparison of comparable houses on a back street and a heavily traveled thoroughfare in the same neighborhood? A. Yes, that is correct. That was the procedure.

(Mr. Houston) Your witness.

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(St. Tr. p. 284):

FREDERICK M. BABCOCK,
6410 Meadow Lane,
Chevy Chase, Maryland

DIRECT EXAMINATION

By Mr. Houston:

* * * * *

(St. Tr. pp. 285-286):

Q. What is your professional field, Mr. Babcock? A. Real estate consultant and evaluation.

Q. Does that include the matter of rating of investment risks, analysis of projects, evaluating real properties and urban problems? A. Yes, it does.

Q. Will you give us something of your business background? A. I have been active in the real estate and real estate consultant appraisal field since 1920, commencing with a rather rich experience all during the 20's in connection with the value of property in thirty-seven States, the United States and in Canada. I was at one time an assistant administrator of the Federal Housing Administration, in charge of all the technical matters having to do with the acceptance of mortgages insured by FHA. I have been on the appraisal staff of the Prudential Insurance Company at one time.

Q. About the FHA, may I ask you whether you organized and operated the entire rating staff of the FHA? A. Yes, I did.

Q. Did you establish the techniques of the Merit System and the Training Program? A. Yes, I did.

Q. Were you fully responsible for all case decisions in FHA? A. I was.

* * * * *

(St. Tr. p. 287):

Q. Have you given appraisal courses in the American Institute of Real Estate Appraisals? A. Yes, I have.

Q. And you have been an author of several books and you have contributed to professional journals? A. Yes, I have.

* * * * *

(St. Tr. p. 289):

Q. Mr. Babcock, let me ask you first whether from your experience in the thirty-seven States and Canada, and also your experience with the Federal Government, you can state whether the conversion of ordinary residential streets into arterial thoroughfares, increases the load of traffic?

* * * * *

(St. Tr. pp. 290-292):

A. Within my experience, the presence of traffic, the greater the amount of the traffic the lower the value would be; all other things being equal.

Q. Will you explain the ways in which the traffic causes the lowering in value? A. First of all, value of real estate is related to the usefulness of real estate. In connection with the use of real estate, of residential properties, the presence of traffic, at least, that is, primarily the volume of traffic and the character of traffic, that does the damaging. I have in this report summarized the major factors in the traffic which, in my opinion, depreciates the value of real estate. That list includes the physical danger that is present from the presence of the traffic. Number two here would be the noise. Number three is the turmoil and confusion that accompanies fast moving volume of traffic. Another item is dirt. The next item here is one that I think is very important, the size of the vehicles. Larger vehicles are much more damaging to residential values than are ordinary passenger cars. Another one in the list is limited circulation, by which I am making reference to the difficulties of parking. This would relate to one-way operation streets, for instance, the fact that people are not free to move away from their own properties or to go toward them, but have to make a rather studied detour in circulating to

use automobiles in connection with their property. The next item I have mentioned here is the fact that all of the factors permeate and become particularly important in relation to children. And the last one in this list is the matter of the hours of street use.

Q. Will you elaborate on that for us a bit? A. On the hours of street use I am referring to the fact when streets become arterial highways and invite the use of the streets by freighting vehicles, we have to consider the fact that they are very frequently used during night hours. The trucks, a large number of trucks usually are loaded during the day and make their trips at night. So that where streets are used to accommodate that type of traffic, the traffic period that would disturb the abutting owners may be greatly extended; in fact, in some cases, may run all night.

Q. Is this traffic volume one that is generally considered in making appraisals of real estate values? A. Oh, definitely. In appraising residential real estate an appraiser should take into account everything that relates to the enjoyment or the impairment of the enjoyment of the property by the occupants, and it would be an incorrect appraisal to neglect to take into account traffic factors.

* * * * *

(St. Tr. p. 295):

Q. I will ask you to summarize the results of the interview survey reports in the 2000 block of McCulloh Street and the 2000 block of Druid Hill Avenue, with reference to the residential character of those streets.

* * * * *

(St. Tr. pp. 296-298):

A. The figures shown on this chart represent the results I found by reviewing the questionnaires and tabulating the results. There were thirty-seven interviews of occupants, thirteen of them on Druid Hill Avenue and twenty-four on McCulloh Street. I found that twenty of

the thirty-seven represented structures that were owner occupied. That is, the owners of the properties were also the sole occupants of the properties. Five only of the thirty-seven properties were what we define as rental properties on the form, by which we mean that the owner was in the property occupying it himself but rented out space to additional families or groups, or something of the sort. Then the third classification, the remainder, there were twelve cases classified as commercial, by which we do not mean retail commercial, but we mean the property is owned by an absentee owner and all of the space in it is occupied by tenants of the owner.

(The Court) That was how many?

(The Witness) Twelve cases, sir. The same figures divided into percentages indicate that the percentage owner occupied on the two streets was fifty-four per cent. That percentage on McCulloh Street was 59% and on Druid Hill Avenue 46%. The percentage of properties that were rental properties, defined as I did define the word, "rental" was 14% only. That is 4% on McCulloh Street and 31% on Druid Hill Avenue. The commercial and the combined percentage was 32% which divides between 37% on McCulloh Street and 23% on Druid Hill Avenue. There was also a tally indicating the numbers of rooms. Out of the thirty-seven cases, the two largest items are eighteen cases that were dwellings with nine rooms in them and fourteen cases with twelve rooms. Then there was a scattering of five cases that had eight, ten or eleven rooms. The average number of rooms per house was calculated at 10.16 rooms. We also got some figures on the average years of occupancy. The owner occupants, that particular group of twenty families, on the average was 17.9 years. The renters had been there 15.2 years.

Q. Will you state whether that survey and the analysis which you have just made, together with your experience in viewing the outside of the houses gives you any opinion as to the character of the neighborhood?

(Question objected to; objection overruled.)

A. I gathered the impression that for all purposes they were of a very high grade character, and I also draw the conclusion definitely that the relative high percentage of owner occupancy and the long period of occupancy was very significant.

* * * * *

(St. Tr. p. 301):

Q. Let me put it another way. You have sat in the Court room and heard the witnesses testify as to the traffic conditions which have developed on McCulloh Street and on Druid Hill Avenue. If that testimony is true, can you state whether such traffic—what effect, if any, such traffic would have on the values of the properties in the 2000 block of McCulloh Street and Druid Hill Avenue for residential purposes.

(Question objected to; objection overruled.)

A. It would have a decidedly adverse effect.

* * * * *

(St. Tr. p. 302):

Q. Let me put it this way: Mr. Babcock, I am asking you hypothetically that if the traffic is increased on those streets over what it is at present, and if in the increase in traffic you have buses, heavy trucks, what effect, if any, would that have on the values of the properties in the 2000 block of McCulloh Street and Druid Hill Avenue?

(Question objected to; objection overruled.)

A. It would have a decidedly adverse effect, it would have the effect of lowering the values of the properties.

* * * * *

(St. Tr. p. 303-304):

Q. For purposes of determining the effect of heavy traffic on arterial thoroughfares in Baltimore, have you made any study of the 1000, 1600 and 1700 blocks of

Franklin Street, Mulberry Street and Edmondson Avenue? A. Yes, I have.

Q. Can you tell us why you picked those particular blocks and those particular streets?

(Mr. O'Dunne) I want to make the same objection.

(The Court) Give you an exception.

A. I picked those particular streets because Franklin and Mulberry Streets are heavy traffic streets, and Edmondson Avenue is a light traffic street. In this connection, in the same survey there were ninety-seven interviews to determine the same kind of facts that we secured on Druid Hill Avenue and McCulloh Street.

Q. May I ask you also as to whether you picked these blocks because the houses are comparable on all of these blocks, with the only difference being the factor of the traffic? A. That is substantially true. As a matter of fact, on Edmondson Avenue I believe the average lot was one and one-half feet narrower than the other two streets. But that was the only physical difference that was self evident.

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(St. Tr. pp. 305-311):

Q. State the character of the properties, will you please?

(Mr. O'Dunne) We make the same objection.

(The Court) Overruled.

A. The significant part of the survey was we found a number of sales, eleven I think, in the area. By taking those reported sales and averaging them, that is taking all of the ones on Franklin and Mulberry, we found that the average sale during that period had been—the period was from 1940 to 1947, all of the sales reported in those years, we found that the average of those sales—that again includes the fact we took the ground rents and

capitalized them at 6%, and added them to the price paid for the leasehold estate—we found that figure came out at \$5,308. That is the average of the sales on Franklin and Mulberry Streets. Those on Edmondson average \$7,243. That is pointed out on that chart. The red one is Edmondson Avenue. That is \$7,243. Taking that as one hundred per cent. and calculating the ratio of \$5,308, the pale color there to the left is 73.3%, which would indicate that there is a difference of 26.7% attributable, so far as you can tell, to merely the difference in the matter of traffic, because otherwise the properties appear and were reported to be substantially alike. The two part color bars at the right of the chart, the green and the orange way over to the right, are exactly the same analysis except that they were based on a per room basis. There was a slight difference in the numbers of rooms of the particular houses that have been subject to sale, and there the figures show \$831 for the sales price per room on Edmondson Avenue and \$637 per room in the cases on Franklin Street and Mulberry Street, and that lower figure is 76.6% of the higher figure. And, again, would be interpreted in my opinion as representing primarily the percentage difference in the values of the properties.

Q. Did you make a comparison of sales in the 1600 and 1700 blocks of Franklin Street and Edmondson Avenue?

A. Yes. I have another chart, Mr. Brown, chart C, which actually includes the same properties as are in this one.

(Mr. O'Dunne) I would like to make the same objection.

(The Court) You have an objection and exception to all of this. A. This eliminated the properties in the 1000 block in an attempt to make certain that the comparisons relate to exactly parallel blocks rather than jumping all over the area. Here again the same general results are shown on a per house basis. The Edmondson Avenue sales show \$7,350 average and the Franklin Street sales show \$6,133, and the ratio of difference is 83.4%, that is

the houses that were on the heavy traffic street. The sales indicate that they were only on a basis of 83.4% on the basis of the sales on the other streets. The other part of the diagram indicates the same thing on a per room basis and the second figure is percentage, which is 86.5%, which represents 13.5% penalty that apparently buyers of properties attached to their bidding when they are bidding for properties on these traffic streets.

(The Court) Strike out about the penalty. It is a difference, that is all.

(The Witness) Yes, a difference, not a penalty.

Q. Did you make an analysis of the real estate tax assessments of the city of Baltimore for 1943, concerning the 1000 blocks of Franklin, Mulberry Street and Bennett Place, to determine whether the difference in the sale value is reflected in the assessments?

(Question objected to; objection overruled.)

A. Yes, I did.

Q. Will you give it to us as to the 1000 block in Franklin and Mulberry and Bennett Place? A. The area taken was the three opposite blocks, three single blocks on those streets, and they are all in the 1000 block and I took the "publication of real estate tax and assessments in Baltimore, 1943" which on the cover of it was purported to have been published by the Mayor and City Council, and took all of the assessed valuations reported there, that is, I added the land and buildings assessments which are presented, and made totals of them for all of the inside properties. That is, I omitted the corner properties in each case. By and large, these streets are apparently improved by identically the same kind of properties, there is no substantial difference between them. The comparison, of course, is primarily between Bennett Place as a light traffic street and Franklin and Mulberry Streets, which are heavy traffic streets. There was 21 properties on Franklin Street with an average assessed

valuation of \$2,181, in that year, and Mulberry Street there was 17 properties which averaged \$1,708; an average for both of those streets representing heavy traffic streets, \$1,880. On Bennett Place the average of 36 properties averaged \$2,722, and the percentage difference was quite pronounced which indicated that the heavy traffic street assessments were 69.1% of the assessments of the other streets.

Q. Did you also make a comparison of the 1943 real estate assessments by the City of Baltimore in the 1700 blocks of Franklin Street and Edmondson Avenue? A. Yes, I did. In this case the comparison relates to two single and opposite blocks, using the four street frontages form, with the corners excepted just as in the previous comparison. The Franklin Street assessment evaluations relating to the 22 inside properties average \$2,410; the Edmondson Avenue cases, 17 properties average \$3,217. The percentage difference is calculated in the same manner and showed that on the heavy traffic street the assessments were 7.9% of the assessments of the other street, a light traffic street.

Q. May I ask if you, in order to check your findings made a comparison of 1943 assessment in another section of East Baltimore, 2400 blocks of Orleans and Jefferson Streets? A. Yes, I did. The results are shown on this chart, which shows that on Orleans Street the average of eight properties, the assessments on eight properties were \$2,416; on Jefferson Street, 21 properties, the average was \$2,710. The percentage difference being 10.8%. That is the difference, which is much less than in the other examples. I might point out the reason there are only eight properties on Orleans Street on this particular comparison is because the physical characteristics on the balance of the frontages were not comparable kinds of real estate.

Q. Did you make a comparison of the 1943 assessments in the 2000 blocks of Orleans and Jefferson Streets? A.

Yes. This comparison is similar to the preceding one and relates to a pair of blocks or two blocks away from the other one. In this case, the heavy traffic street, Orleans Street, there was 31 properties in the comparison, the average assessment was \$2,463—that is the green part of the chart—and the light traffic street, Jefferson Street, 29 properties, the average assessment was \$2,737, and the ratio of difference is exactly 10% in this particular instance.

* * * * *

(St. Tr. pp. 312-313):

Q. As to Baltimore, what is your finding as to the extent of valuation impairment apparently in similar properties based upon the difference of being on a heavy traffic street and a light traffic street? A. By scanning all of these cases and the findings related to them, I arrived at the opinion that the value impairment due to the heavy traffic as against comparatively light traffic is somewhere in the neighborhood of between 15 and 25%, or, say for convenience, that it is 20%.

Q. Does that reflect the only difference in value of property or desirability of property for dwelling purposes as being on a light traffic street and heavy traffic street? A. In my opinion, no, it does not. The assessments that were used as the basis of the comparison are, of course, in part very definitely related to the sales values, the prices that the assessor himself has observed by keeping track of the records of sales. Some of the comparisons, the first two, were based on reported sales, I am under the impression, in the case of properties occupied by negroes, as all of these properties in the comparisons are, and if there is any error it is in the direction that the percentages actually are greater because, in general, the negroes do not have the opportunity and flexibility of movement, and during the periods of a housing shortage which we had during the war and since, they don't have freedom of movement and may be logically presumed to have paid more for properties on

the heavy traffic street than they would if they had complete freedom of choice.

Q. So there is an artificial support of the price values on the heavy traffic streets under such circumstances?

A. That is my opinion.

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(St. Tr. p. 319):

REDIRECT EXAMINATION

By Mr. Houston:

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(St. Tr. pp. 320-322):

Q. There are no properties involved on McCulloh Street or Druid Hill Avenue which are in any way comparable to properties on Connecticut Avenue, which Mr. O'Dunne has been cross-examining you about, are there?

A. No, properties on Druid Hill Avenue are old row houses, built out practically to the street; nothing but the sidewalk. I imagine the majority of them are right on the building line, the private property line. The Connecticut Avenue apartments to which Mr. O'Dunne referred run clear up and down the street. There is first of all—I don't recall the exact number of feet, but there is a building line that is well back, requiring private lands. In addition to the sidewalk, many of the owners have pulled back, I think, even to erect apartments. I do know from personal experience that the architects worked tooth and nail to design the apartments so they would get the advantage of the Connecticut Avenue addresses, Connecticut Avenue transportation, but the individual apartments they tried to throw back to the other frontages to the maximum degree they could design them.

Q. Mr. O'Dunne questioned you about the desirability of some of these properties on thoroughfares for professional offices. Are the properties in Druid Hill Avenue and McCulloh Street readily adaptable to conversion

over to offices? A. Does your question refer to doctors and possibly real estate men?

Q. Yes, I will put it that way. A. Well, no, in my opinion they are not. In both lines of work the matter of parking would be a vital thing to the conduct of the business and the source of the business, whatever value there might be of showing a sign to passing automobiles destined to suburban zones would be negligible.

Q. Even in cases where professional offices are located on heavily traveled streets, there is a necessity for parking facilities and so forth on side streets, is there not? A. Yes, or on private land.

Q. So that the lack of parking facilities at the office is still a handicap to a professional office on a busy street? A. That is right.

* * * * *

(St. Tr. pp. 324-326):

(Mr. Houston) If your Honor please, I should like to offer in evidence the Report to the Commission on City Plan of the City of Baltimore, by the Advisory Engineers, dated January 29th, 1942, at page 64. That is the Gold Street Ordinance. May I read it?

(The Court) Yes.

(Mr. Houston) This is the Report to the Commission on City Plan of the City of Baltimore on Present and Proposed Physical Facilities.

The Commission on City Plan presented us with the following list of twenty-four proposed street widenings which were considered by them as pressing and necessary as a part of a three or four year improvement program. Our comments and recommendations will be found following each of these items, except where the same conclusions apply to two projects, in which case they are listed together.

1. Auchentoroly Terrace cut-off, and a McCulloh Street and Cloverdale Road, via Druid Hill Park and Tioga Parkway to Reisterstown Road. Proposed width 54 feet between curbs. Cost of property acquisition and razing, none. Cost of construction, \$217,000.00. Total estimated cost, \$217,000.00.

This improvement has merit since McCulloh Street has been designated as a through highway and is heavily traveled morning and evening. However, we are opposed to undertaking it for the following reasons:

McCulloh Street traverses a solidly built negro section, with two large public schools facing it. It is now carrying as much traffic as it can well handle, and the opening of the proposed outlet would tend to increase its use.

* * * * *

(St. Tr. p. 327):

(Mr. Houston) No. 5 Line—Pimlico-Patterson Park—following the present route from the termini at Belvedere Car House and Manhattan Loop by Park Heights Avenue and Pennsylvania Avenue to Fulton Avenue, then by a new route continuing on Pennsylvania Avenue to North Avenue, to Madison Avenue, to Eutaw Street, to Lombard Street, to South Street, to Pratt Street, to Calvert Street, to Lombard Street, returning over same route.

(Note: Paper above referred to, having been offered in evidence was filed and marked Plaintiffs' Exhibit No. 22.)

ARNETT FRISBY

DIRECT EXAMINATION

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(St. Tr. p. 328):

By Mr. Houston:

Q. What is your business, Mr. Frisby? A. I am a real estate broker.

Q. How long have you been a real estate broker in the City of Baltimore? A. 19 years.

Q. Are you acquainted with the territory or the area of McCulloh Street and Druid Hill Avenue? A. Yes.

Q. Will you state whether you, in the course of your business, have had occasion to make loans and sales in those territories? A. I have.

Q. Will you state whether your business keeps you in constant touch with those territories? A. Yes.

Q. How long have you been familiar with the territory in a professional way, as a real estate broker for loans and sales? A. For the 19 years I have been in the business.

Q. Have you also made appraisals? A. I have, sir.

* * * * *

(St. Tr. p. 332):

Q. (By Mr. Houston) Can you estimate about how much you think that the designation of these streets as one-way streets will affect it?

(The Court) Don't you think you should ask him how it will affect the value?

Q. (By Mr. Houston) Will you say whether it affects it adversely or beneficially? A. I would say adversely.

* * * * *

(St. Tr. pp. 333-338):

Q. Will you state what, in your opinion, is the fair market value of your property?

Question objected to.

(The Court) Do you mean now?

(Mr. Houston) Yes.

(The Court) I will let him answer that but tell me what property it is. A. Do you mean my residence.

Q. (By Mr. Houston) Yes. A. I would say the fair value of my residence would be between \$6,500.00 and \$7,000.00.

(The Court) What property is that?

(The Witness) That would be 517 North Arlington Avenue.

Q. (By Mr. Houston) No, I am talking about Druid Hill? A. No, I don't have property there; I'm sorry.

Q. Do you know the Mitchell property, Clarence Mitchell property; that is 1324 Druid Hill Avenue? A. Yes.

Q. Will you state what the fair market value of that property is? A. The fair market value of that property would be approximately \$7,000.00.

(The Court) You think it is worth \$7,000.00 today? I mean on the general market, and not as a tax assessor, and not as a sales agent for an owner?

(The Witness) On the general market, yes, your Honor, I think it is valued at \$7,000.00.

(The Court) You think it is worth \$7,000.00.

Q. (By Mr. Houston) Does that include the premium which negroes would have to pay on account of restrictions on places they have to have in Baltimore? A. Yes.

(Objected to; objection sustained; exception noted.)

Q. (By Mr. Houston) Will you state how much, in your opinion, that property would be affected by the use of Druid Hill Avenue as a one-way express thoroughfare?

(Question objected to; objection overruled; exception noted.)

A. I think twenty or twenty-five per cent.

Q. Are you acquainted with Mrs. Jackson's property at 1216 Druid Hill Avenue? A. Yes.

Q. Will you state the fair market value of that property today? A. I would consider that the same.

Q. Will you state how much, in your opinion, that property would be affected?

(Question objected to; objection overruled; exception noted.)

A. I would say the same, twenty or twenty-five per cent.

Q. Are you acquainted with Mrs. Chissell's property, 1534 Druid Hill Avenue? A. Yes.

Q. Would you give us an estimate as to the value of that property?

(Objected to.)

Q. Will you give us your opinion as to the fair market value of that property? Today. A. The fair market value of the property would be about between ten and eleven thousand dollars.

Q. And, in your opinion, how much would the fair market value of that property be affected by the use of the street, by the designation and use of the street as a one-way express thoroughfare?

(Question objected to; objection overruled; exception noted.)

A. I would say twenty-five per cent.

Q. Are you acquainted with the Thomas Smith property at 1729 McCulloh Street? A. Yes.

Q. Will you give us the fair market value of that property? A. \$6,500.00.

Q. And how much would that property be affected by the use of McCulloh Street as a one-way expressway?

(Question objected to; objection overruled; exception noted.)

A. About twenty per cent.

Q. Are you acquainted with the property of Mercer Smith, 2415 McCulloh Street? A. No, I am not.

Q. How about the property of Thomas Winkey, one of the houses sitting back in the yard? Are you familiar with those houses? A. Oh, yes, yes.

Q. What is your opinion as to the fair market value of the Winkey property today? A. About four thousand dollars.

(The Court) Do you mean in fee? Have you ever been inside this property?

(The Witness) Not this particular property. I am taking it from the general neighborhood.

(The Court) I don't think he can testify to the value of it; he has never been in it.

(The Witness) I know the character of those properties up there.

(The Court) You don't know whether it has six or seven rooms?

(The Witness) I know it has six rooms.

(The Court) You don't know the condition of it, do you?

(The Witness) No, I don't know the condition.

(The Court) I sustain the objection.

(Mr. Houston) It is the same basis on which the assessors value. They don't go inside, your Honor will recall.

(The Court) They frequently do.

(Mr. Houston) They definitely testified on the stand they didn't go on the inside. They look at the outside and consider sales.

(The Court) I don't think he ought to testify to a property he has not examined.

Q. (By Mr. Houston) Raymond Boykin (?), 2466 McCulloh Street; are you familiar with that? A. Yes.

* * * * *

(Tr. p. 339):

Q. (By Mr. Houston) In appraising and estimating market value of real estate, the fair market value of real estate, residential property, do you consider the use to which the neighborhood or the street is going to be put, in estimating the fair market value of a street bed?

(Question objected to; objection overruled; exception noted.)

A. I do.

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(St. Tr. p. 339):

MILTON P. BROWN

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(St. Tr. p. 340):

By Mr. Houston:

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(St. Tr. pp. 342-344):

Q. (By Mr. Houston) Have you made a check count of the schools in the neighborhood of Druid Hill Avenue and McCulloh Street? A. That is correct.

Q. Will you state to his Honor what that check count shows?

(Mr. O'Dunne) Objected to. Simply on the ground that it is immaterial how many schools are in that neighborhood.

(Objection overruled; exception noted.)

A. There are nine schools in that area.

Q. Can you spot them? A. Yes, they are spotted on the maps which we have made.

Q. Will you come and get them and indicate them to his Honor. A. Surely.

(Note) Plat was thereupon pinned on the board.

(The Witness) The area concerned—am I at liberty to testify?

(The Court) Go ahead.

(The Witness) The area concerned, this is Druid Hill Avenue here, this is McCulloh Street right here (indicating). Now, these schools, the orange-colored circles are junior high-schools, the blue-colored circles are elementary schools, and the green are vocational schools. This particular area, where this proposed conversion is to take place, you can see that there is a concentration of schools in the vicinity which necessitates the students of all the schools in this area, at least a portion of the students' crossing these proposed one-way thoroughfares, going to and from the schools. There are two schools which are immediately adjacent to the proposed one-way thoroughfare, which would necessitate all of the students crossing one or the other of the two streets.

Q. (By Mr. Houston) Can you name those?

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(St. Tr. pp. 344-346) :

A. All right. School 131, which is located at Biddle near Druid Hill Avenue; School 127, which is located on Biddle near Druid Hill Avenue; School 122, which is located on Preston near Druid Hill; School 118, which is located at Lanvale near Argyle Avenue; School 125, which is located at Pennsylvania near Dolphin; School 103, which is located at Lanvale near Division, at Division, I mean, near Lanvale; Vocational School 451, located at Lafayette near Druid Hill, Druid Hill and Lafayette, and Junior High School 130, located at McCulloh and Lafayette.

(The Court) Did you name one at Lafayette and Division?

(The Witness) Lanvale and Division is School 103. School 120, which is located at Robert near Pennsylvania Avenue, and there is also School 60, which is located at the extreme north at Clifton and Francis Street. This constitutes a rather unique concentration of schools in that particular vicinity, and none of the other proposed highways one-way streets that are present in operation have such a concentration, have such a concentration of schools in their vicinity.

Q. (By Mr. Houston) Have you made, for the purposes of this case, a study of the population density of that area, compared with other areas in the City of Baltimore? A. Yes, that is correct. The study was not made personally. We have studied the reports of authorities who have made studies. That is done in the Hubbard Report, which, I think, is the best information on that.

Q. I will ask you to turn to that section of the Hubbard Report which deals with the matter of density of population in that area? A. This is the development of certain residential areas in Baltimore, Commission on City Plan, published July 1st, 1945. The information is contained in figure 6.

Q. And what does that show, as to this area? A. It indicated that the particular area in question has over one hundred and twenty-five persons per acre, and that is the most densely populated section in the City. Bordering on these two streets the population runs between one hundred and one hundred and twenty-four, and seventy-five to ninety-nine persons per square acre.

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(St. Tr. p. 349):

REDIRECT EXAMINATION

By Mr. Houston:

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(St. Tr. pp. 349-353):

Q. (By Mr. Houston) What is the character of the occupancy of Pennsylvania Avenue, as compared with Druid Hill Avenue? A. Pennsylvania Avenue is largely commercial; Druid Hill and McCulloh Street, the area is largely residential.

(The Court) I want to ask just a few questions.

Q. (By the Court) I know that you are sincerely interested in not only that section of Baltimore City but all of it. A. That is correct.

Q. Suppose you had the designation of two streets to go through that section as one-way streets, what two would you take? A. If it was my choice?

Q. Yes. That would be northwest and southeast, running northwest and southeast? A. Well, it is my opinion, and, of course, you have asked for my opinion, that Eutaw Place would be a much better facility.

Q. Eutaw Place would be better? A. That's right, because, if the City is faced with an emergency as to moving traffic, Eutaw Place could be very easily widened, and the only sacrifice would be the particular space that constitutes the boulevard, and it would be one arterial thoroughfare, and you could have two lanes on either side.

Q. You couldn't do that all the way up Eutaw Place; above North Avenue it is only the width of the ordinary street. A. That is correct.

Q. You would have to have another street, and, I suppose, it would have to be contiguous to Eutaw Place. Would you say that Linden Avenue would make a better

north and south thoroughfare? A. If you are trying to get your arterial thoroughfares in proximity to one another, the natural other conclusion would be Madison which was originally proposed at one time.

Q. Wouldn't that have the same effect practically as the two streets we are talkin about? A. It wouldn't be quite as serious, in my opinion, but, however, it would be serious. Any plan of this nature is going to affect the particular area that it is placed upon. The problem is as to how greatly.

Q. Isn't it a fact that Madison Avenue and Eutaw Place converge together at Madison Street? A. That's correct.

Q. The lower end you would have all your traffic, north and south, running into one space? A. Yes, that is, at that point. They are faced with that same problem in the proposal, in that they would have to make another entrance.

Q. Wouldn't that rule out the use of those two streets as one-way streets, if all the traffic north and south converged into one point at the southern end? A. Well, it would constitute a problem; there is no question at all about that.

Q. But you think Madison and Eutaw would be better than the two streets that have been designated? A. That is my opinion. You asked me my personal opinion.

(The Court) I did. All right.

RE CROSS EXAMINATION

By Mr. O'Dunne:

Q. If Eutaw and Madison Avenue had been designated in place of Druid Hill and McCulloh, it would not have eliminated the necessity of children crossing those streets? A. No, it would not have eliminated the necessity. However, I think it would have limited the number.

Q. You think more come and go through the eastern part than the western part? A. That's correct.

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(St. Tr. pp. 354-362):

REV. VOLLEY V. STOKES

DIRECT EXAMINATION

By the Bailiff:

Q. State your name and address? A. Reverend Volley V. Stokes, 1526 McCulloh.

By Mr. Houston:

Q. Are you the Minister of a church in the area of McCulloh and Druid Hill Avenue? A. I am, sir.

Q. What Church is that? A. Trinity Baptist Church.

Q. And the location? A. Druid Hill Avenue and Mc-Mechen Street.

Q. How many members do you have? A. Around 500.

Q. Will you state how long you have been there, in that location? A. I have been Pastor of that church 19 years now.

Q. Are you familiar with traffic conditions there? A. I think so.

Q. Will you state how the designation of Druid Hill Avenue as a one-way express-way will affect your church?

(Mr. O'Dunne) I don't think there is anything in here about affecting a church, in the Bill of Complaint.

(Mr. Houston) We have pointed out the fact that it will affect the neighborhood, traffic conditions in the neighborhood.

A. It will affect our church in that it will give our children—we have one hundred and fifty who are in

our Sunday School—the same hazard that it gives children in the public school, and it will also have its effect upon special gatherings and funerals, and so on.

Q. (By Mr. Houston) You live on McCulloh Street.
A. I have lived there 15 years.

Q. Are you acquainted with the conditions of traffic on McCulloh Street? A. I am.

Q. Were you living on McCulloh Street prior to the time that it was designated as a boulevard? A. Yes, sir.

Q. Will you state what the effect, if any, has been on your family and property, as a result of traffic conditions since McCulloh Street was designated as a boulevard, as compared to the time before it was designated as a boulevard? A. Well, I can say very definitely that, if it were possible and within reason of my means, I would be very glad myself to get away from 1526 McCulloh Street.

Q. For what reason? A. Because of the speeding of the traffic, and it is a greater hazard than it was before, and the noise that it gives, the fumes of the buses that stop just above, the length of two buses, from my door, and, then, the very unfortunate situation of having a light that shines in my bedroom at night.

Q. Do trucks use it, large trucks? A. Yes, sir.

Q. What, if any, experience have you had as a result of trucks using it? A. Well, we have just a degree more of noise, of course, than the other.

Q. What is the condition late at night? A. Almost unbearable.

Q. Because of what? A. Because of the heavy traffic; the trucks move more at night than in the day.

Q. Is there anything happening to the house, physically? A. It is getting a big shaking. I don't know how soon we will have some trouble, but I know I am uneasy about it.

Q. Are you able to feel that? Is that conscious? A. Yes, it is very definite.

(Mr. Houston) Your witness.

CROSS EXAMINATION

By Mr. O'Dunne:

Q. Have there been any increased traffic fumes, as a result of the streets being made one-way? A. Any increased traffic accidents, do you mean?

Q. Fumes from the gasoline? A. Oh, yes.

Q. And vibration, I suppose, noises? A. Certainly.

Q. How about dust? Is there any extra dust caused? A. Yes.

Q. The traffic there now, is it worse at certain periods of the day than it is at other periods during the day? A. Well, it is faster, it moves faster, and it's a greater congestion on the downtown traffic on Druid Hill Avenue in the morning than it is in the evening.

Q. What time is the congestion heaviest in the morning? A. I should say until, from around from early morning until around ten o'clock, somewhere around ten or eleven o'clock.

Q. Do you happen to know why it is heavier at that time of the morning? A. Do I know why?

Q. Yes. A. I just know there is more traffic. I might surmise that it is due to rushing down to the business section of the city.

Q. To go to work? A. Yes.

Q. You say you have one hundred and fifty children in your Sunday school, and do they come there every Sunday? A. Every Sunday, and two or three evenings a week we have rehearsals, choir rehearsals, and other young people's meetings.

Q. You said the making of these streets one-way, because of increased traffic, would have the same effect on your children going to Sunday school as it would have on children going to public school. Is that what you meant to say? A. It would constitute the same difficulty. It might not be at the same time but it would have the same difficulty, it would be the same difficulty, especially in the afternoons.

Q. On Sundays you don't have anything like the traffic that you have during the week, do you? A. We don't have the commercial traffic. We have plenty of traffic, just the same.

Q. But it is not nearly as heavy as it is during the week, is it? If it is, then, your surmise is wrong, that it is caused by people coming down to go to work? A. No, it wouldn't be the same amount of commercial traffic, but it is heavy on Sundays.

Q. It is not as heavy as it is during the week? A. I don't suppose it would be, if you eliminate the cause of going to and from work.

Q. You are there. You know that it isn't? A. I wouldn't say it isn't.

Q. You have lived there for a long number of years? A. Yes, I have lived there for 15 years.

Q. You have told Mr. Houston that you are in position to observe the effect of increased traffic? A. I did.

Q. So I conclude, if you observed the effect, that you observed that traffic has increased, have you not? A. I can only say what I have said before, that, eliminating the rush traffic of going to and from work, we don't have that same traffic, but we have traffic, folks coming to church and going other places, to the ball games, wherever they want to go, and they don't slow down because it is Sunday.

Q. I know they don't slow down. You surmise the volume is not too much on Sunday but you can't say whether that is true or not? A. I can't say that it is any less.

(Mr. O'Dunne) Or any heavier.

Q. (By the Court) You never counted it, did you, Reverend? A. No, I never counted it, Judge, Your Honor.

Q. Is traffic on Druid Hill Avenue as heavy during the week-day as it is on Charles Street? A. Well, I wouldn't know about Charles Street. I haven't lived there. I only cross there on business.

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(St. Tr. p. 365):

R. BROOKE MAXWELL

DIRECT EXAMINATION

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(St. Tr. p. 365):

By Mr. Houston:

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(St. Tr. pp. 366-367):

Rule 41 of the Rules and Regulations of the Department of Recreation and Parks of the City of Baltimore, Maryland. The use of trucks is restricted and limited to automobiles classified as pleasure vehicles, to include station wagons, motorcycles, bicycles and passenger vehicles (limited to nine person capacity only). Omnibuses adapted for more than nine-person capacity shall operate in any park only by permit. Vehicles constructed or adapted for or engaged in the carrying of merchandise or the hauling of equipment and appliances, but not limited thereto, are prohibited from using any park, except when necessary to make deliveries in such parks or where necessary because of fire, accident, impending danger, public disaster, or other emergency.

Q. (By Mr. Houston) How long have you been in your present position? A. I came with the City as Director of Parks in August of 1945. About a year later we had the Charter changed, and the title of the position was changed to that of Director of the Department of Recreation and Parks, and I have been in that for a period of about two and a half years.

Q. Will you state whether this Rule 41 in substance was in effect at the time that you came to the Department of Parks, the Department of Recreation? A. Yes. A rule similar to this has been in effect for many years; I don't know how many.

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(St. Tr. pp. 368-408):

PAUL L. HOLLAND

DIRECT EXAMINATION

By the Bailiff:

Q. State your name and address? A. Paul L. Holland, 31st and St. Paul Street.

By Mr. O'Dunne:

Q. What is your position? A. Director of Public Works of the City of Baltimore.

Q. How long have you been in that position? A. January 20th, 1948.

Q. What do the duties of that office entail? A. The Director is charged with the responsibility for the operation, guiding the operation of eleven bureaus that are comprised in the Department of Public Works.

Q. What did you do prior to that time? A. I was Chief Engineer of the Public Service Commission of Maryland for seventeen years.

Q. As such could you tell, just roughly, what your duties consisted of? A. They consisted of handling the

engineering work in utility regulation; in the promulgation and formulation to the Commission of safety rules for motor carriers, under the jurisdiction of the Commission, for trucks, buses, taxicabs, and so forth; similar duties in connection with the vehicles of the Baltimore Transit Company, and, during the course of that time I had occasion to serve as a member, and part of the time as chairman, of the Mayor's Traffic Committee, which was in effect from 1934 until 1942, I think, during which time we made, perhaps, the first recommendations in regard to one-way streets in Baltimore that I know of.

Q. What experience have you had with the planning of streets, as far as cities and municipalities are concerned? A. With what?

Q. What other experience, in addition to your work with the Public Service Commission, have you had, with respect to the city planning of streets, with respect to traffic and traffic conditions? A. I am ex officio a member of the City Planning Commission, which is the City body charged primarily with the study of the use of the physical abilities of the City, as to one-way streets, two-way, and so forth, the design of streets, width, and so forth, all development of newly-built sections, and changes in the older parts of the City. That is a Charter provision.

Q. Are you familiar with the procedure that is followed in Baltimore, with respect to the opening of new streets, or the redesignation of existing streets? A. I am.

Q. Would you tell us what the steps are, any provisions that ultimately are adopted relating to street facilities, the procedural steps that are taken? A. It is the function of the City Planning Commission to designate streets, in general locate and designate them as one-way or two-way arteries. However, other considerations enter into the picture, and, no later than yesterday afternoon there was a conference in my office,

practically all afternoon in which the designation of additional one-way streets was discussed at length. That arose in connection with a meeting of what is known as the board of counsellors of the community and counsel on traffic. I happen to be a member of the Board of Counsellors, and, in connection with the proposed re-routings of the Baltimore Transit Company, we discussed at length additional one-way streets. Ordinarily, if the City Planning Commission contemplates a street, or a change of any kind in a street, other than that involved in a new real estate development, plans for which must be approved by the Planning Commission, that Commission consults with the various bureaus in the Department of Public Works, to see what physical changes in existing overhead or underground facilities are necessary to regrade, relocate, widen, or alter in any way the existing street facilities.

Q. Are you familiar generally with this Ordinance No. 169, approved in March of 1948, pursuant to which McCulloh Street and Druid Hill Avenue were designated as one-way streets? A. I am familiar by reference to reports in my office as to the events leading up to it. Of course, the Ordinance was passed during my tenure in office as Director, and had my approval.

Q. Could you tell his Honor what the events were that led up to the passage of the Ordinance, so far as you know from records in your possession.

(Mr. Houston) I would like to see the record. I have no objection to his relating to us the events, but, as to the contents of the record, I would like to see it.

Q. (By Mr. O'Dunne) I don't mean for you to give us the contents of any record.

(The Court) All you want Mr. Holland to give is the sequence of events that occurred leading up to the final passage of the Ordinance.

(Mr. O'Dunne) Yes.

(Mr. Houston) I have no objection to that.

A. The only documents in my file having to do with this subject are in evidence in this case already, including the report to my predecessor, Mr. Nathan L. Smith, which was dated sometime in 1945. I did find, subsequent to the time Mr. Carter was on the stand, one additional letter which, some way or another, had been misplaced and was not in that file, having to do with that subject.

(The Court) Can you answer the question? The question is, give us the sequence of actions that led up to the final ordinance which designated these two streets to be one-way streets?

(The Witness) There was some discussion in the period during which I served on the Mayor's Traffic Committee.

(The Court) When was that?

(The Witness) 1934 to 1942. No definite decisions were reached in regard to one-way streets, except in the case of some minor extensions, such as the extension to the eastward, or the one-way operation on Saratoga Street, and, I think, perhaps, the extension on Lexington Street. Then, in 1945, a further study was made by the Department of Public Works, and the results thereof are embodied in the report of Mr. Smith which is in the record in this case.

(The Court) Was that in 1945?

(The Witness) That was in 1945, Mr. Smith's report. From that time on there was discussion in the Department of Public Works, the Planning Commission, and in the Public Service Commission that they were all together at that time in regard to the complete conversion program of the Baltimore Transit Company. That was approved by ordinance of the City Council, and the conversion plan is in the record in this case. It was ap-

proved by the City Council sometime in May, 1946. It was signed by the Mayor, I believe, on May 16th, 1946.

From that time on there has been constant discussion of means of implementing that conversion plan. Those discussions are continuing up to the present time.

In 1946, in anticipation of the conversion of Druid Hill and McCulloh, which was a part of the so-called Smith Plan, the Department of Public Works had constructed the dual road along the outskirts of Druid Hill, the southwestern limits of Druid Hill Park, to connect with those two streets. The additional letter to which I refer, do you want to put this in evidence? It is just an additional letter to the file, which Mr. Carter had found subsequently.

Q. (By Mr. O'Dunne) There has been certain discussion of the correct designation for McCulloh Street and Druid Hill Avenue. It has sometimes been called a boulevard street, sometimes been called an express-way or free-way. What is the correct designation, from an engineering point of view, as called for in this Ordinance? A. A boulevard street is a street on which traffic has the right of way over traffic entering from either side. McCulloh Street at the present time is a boulevard street. A number of our two-way arteries are boulevard streets. An express-way is a street at grade, with grade crossing intersections, but upon which such intersections are limited to three or four or five blocks. It has limited access to a certain extent with grade crossings. A free-way is a street to which direct access is entirely eliminated, except at the grade crossing points where traffic is led into the free-way along lanes that are specifically designed to enhance the safety and increase the speed and capacity of the street. There are no grade crossings on a free-way. Those are the three general definitions. The express-way is simply a part of the grid system. A free-way is an entirely different form.

Q. Into which category will Druid Hill and McCulloh Street fall? A. They will be one-way boulevards, neither expressways nor free-ways. It's a one-way boulevard.

Q. Does a one-way boulevard increase the velocity with which traffic moves? A. The velocity is dependent entirely upon the automobile and traffic signals. One-way operation or boulevard operation in itself does not increase or decrease average velocity.

Q. Are you familiar with the proposed location of the traffic signals? A. I am not, since they are prepared by the Police Department, which department is charged with the handling of traffic on public streets.

Q. Do you happen to know whether the funds to perfect those signals have already been appropriated or not? A. I think they were appropriated in last year's budget. If not, they are in this year's budget. I am pretty sure they were in last year's budget.

Q. There has been some suggestion that perhaps Druid Hill Avenue and McCulloh Street, before conversion, were not the best streets for the one-way Street. Will you tell us what, if any other streets were considered, and why McCulloh Street and Druid Hill Avenue were adopted, as opposed to any other choice? A. I can not say firsthand as to why they were adopted. I can say from my own experience why they should be adopted, and I can say, from my conversations with men in my own department, the Bureau of Highways, as to why they were adopted.

(Mr. Houston) I object to the conversations.

(The Court) You tell us why they were.

(The Witness) From my own knowledge of the matter, I can say Druid Hill and McCulloh, from a physical point of view, offer the most direct and most feasible connection of the highways along the western perimeter of Druid Hill Park to the downtown area, in the general

line of direction in which traffic desires to move, much more direct and much more easily constructed than any other connecting links, as between downtown and the northwest, than would be any other two streets in that particular vicinity. One particular reason for picking those western limits along the Park was to prevent the destruction of the Park. The other plat which was presented, either one of them, would have to be a more circuitous route, or bisect the Park with thoroughfares, and it is not desirable to have thoroughfares bisecting the Park. So the dual lane from Park Circle down to anywhere where the dual lane comes into either the present Reisterstown Road or pending Reisterstown Road offers a direct route from there, without acquiring or utilizing or making unusable more than a few square feet of the Park. The south end of these two streets particularly lend themselves to interconnection with the grid system in the downtown area.

For instance, it is proposed to carry Druid Hill across that vacant lot now used as a parking space at the western limit of Centre Street. Condemnation proceedings have been instituted, and it is proposed to buy that lot, or negotiations are under way to buy the whole lot. Condemnation, of course, only covers the portion needed for the street. That will then connect by gentle grades, the principal grade being something like about three feet, with Centre Street. It is proposed to make that one-way all the way from Druid Hill Park, the northern end of Druid Hill, along Druid Hill, across Howard to Centre and St. Paul Place.

On the northbound route it is proposed to make Monument Street from Cathedral, that is, the western end of the Gardens, Mount Vernon Place, one-way westbound to McCulloh Street at Eutaw, where a very easily and cheaply constructed connection can be made to McCulloh Street northbound.

No other two streets are so easily connected for this service as these two, and no other two streets could take care of the traffic which they are designed to handle.

The traffic survey made jointly by the City, State, and Federal Government several years ago indicates that traffic into the downtown area, the volume charts, in this quadrant is greater than any other similar quadrant in the City.

It is rather interesting to show the charts that indicate the volume of that traffic distributed into the downtown area. From the southeast we have a very small amount of traffic. I ask for the record—is this in evidence (indicating)?

(The Court) I think it is.

(The Witness) This is a report of Transportation Study, Baltimore, Metropolitan Area, Volume 1, which gives the results of this survey.

(Mr. O'Dunne) We offer it in evidence.

(Note) Report referred to, having been offered in evidence, was filed and marked Defendants' Exhibit No. 6.

(The Witness) That shows the traffic coming into the congested area from the southeast (indicating). That shows the traffic coming in from slightly north of west.

Q. (By Mr. O'Dunne) May I make a suggestion? Instead of referring to it as "that", so the record will identify it, what is the first picture? A. This is Plate 10 of Volume 1 of the Report of the Transportation Survey.

Q. That is the first one you referred to? A. That is the first one I referred to.

Q. And the one you have just referred to? A. Is Plate 11 of the same survey, showing traffic coming in from the northwest. Plate 12 is the continuance of traffic coming in from the northwest. The sum of the traffic—

(The Court) While you are doing that, give us an idea of the traffic coming in from the north, so we will have something to go by?

(The Witness) Traffic from the north, which is shown on Plate 13, totals 28,591 total trips.

(The Court) May I see that plate?

(The Witness) (indicating) It will be noted that the sum total of that coming in from the northwest and here (indicating) is equal to traffic coming in from the north. As you swing either way from north and northwest, traffic piles up very very rapidly.

(The Court) What would you say as to the traffic coming into the City, or the third; it is not the first because you say the north is the first, how would it relate?

(The Witness) If you take from Edmondson Avenue, or a little north, the traffic on Edmondson Avenue, around the northwest quadrant, it is even better than a similar length of the quadrant for the north, even. In other words, the area shown on Plates 11 and 12, coming in from the northwest represents 37,000 trips, coming in from the north it is 28,591. The northwest quadrant is even greater than the north quadrant. A further reference to the diagram shown on plates 11 and 12 indicates that this traffic is distributed for points almost as far as the Fallsway, but that Centre Street, which will be one-way east as far as St. Paul Street, will take care of the last bit of that traffic; in other words, we couldn't pick any artery which could so conveniently serve to distribute that traffic as Centre Street, southbound and east-bound.

(The Court) I am a little curious to know why you stopped at St. Paul Street as one-way on Centre Street, when Calvert Street is a one-way street?

(The Witness) If you will notice, that is the end of the traffic coming from that direction. No traffic comes be-

tween St. Paul Street and there (indicating), practically none. It shows perfectly. That is the tip end of it down here (indicating). Down here we come into these other streets and turn around. Then, too, we didn't want to carry—of course, the upper and lower level, St. Paul Place, St. Paul Street, since it is the most convenient southbound lane, will take care of all the traffic that comes in from that direction. It will not be necessary to terminate the traffic movement into St. Paul, from the location of the railroad station and the new Sunpaper.

(The Court) I overlooked the proposition that St. Paul is one-way there.

(The Witness) Yes.

Q. (By Mr. O'Dunne) As far as the effect on Druid Hill Avenue and McCulloh Street, with respect to handling traffic that they are designed to handle by the new connection, how would Eutaw Street and Madison compare as substitutes? A. Not comparable at all. They wouldn't serve the purpose as directly, nor as conveniently, nor as economically, as far as money outlay is concerned.

Q. Will you explain that to the Court? A. We would have to build a circuitous line through the Park. Eutaw goes into the Park at the present time along Park Drive which is badly congested. It would be a circuitous route, and not in line with the traffic movement, the doctrine of distinction, "lines of desire", as we call it. At the south end no other two streets serve so conveniently to tie in with the congested downtown area and deliver traffic where it wants to go.

Q. No such two streets as what? A. As Druid Hill and McCulloh. That is the best we know of, both on the point of the direction of traffic, the lines of desire, and the physical means of connecting them.

Q. As I understand it, Madison Avenue at one time was considered as a substitute for either Druid Hill Ave-

nue or McCulloh Street? A. It was one of the streets considered, but I understand there was objection from the Transit Company. But that is hearsay. From our personal point of view I can state that it is not as desirable, by any means.

Q. Would your reasons from a physical point of view be the same as you have already given to the Court, namely, because of the relationship of Madison Avenue to Eutaw Street? A. Regardless of the Transit Company's desires, or their plan for eliminating or adding to the traffic, it would still be the fact that Druid Hill Avenue and McCulloh offer the two best routes because they are direct.

Q. Before the passage of this Ordinance are you in a position to tell us what the nature of the traffic was on Druid Hill Avenue and McCulloh Street? I might explain that by saying that the Bill of Complaint says that before the passage of the Ordinance the vehicular traffic on McCulloh Street, and more particularly on Druid Hill Avenue was the local traffic of persons resident in or visiting the neighborhood? A. I have no personal knowledge of that.

Q. The Bill of Complaint alleges that such Commissioner was secretly put to work in the construction of these streets or the adoption of them as one-way. Do you know anything about any commissioner being at work secretly? A. I know it was not done secretly, because it was publicized in the paper, has been for the last five years, several years, at least.

Q. As far as the Department of Public Works was concerned, was there anything absolutely irrevocable about the decision to make these streets one-way, if hearings should have revealed the fact that it wouldn't be proper to so make them? A. No decision of the Department is irrevocable. We can always change it. It might be expensive to make it but it can be changed.

(Mr. O'Dunne) All right, that's all.

CROSS EXAMINATION

By Mr. Houston:

Q. Mr. Holland, did you come to Baltimore to take an official position with the City? A. No, with the State of Maryland.

Q. And that was in what year? A. 1931.

Q. Prior to that what was your first experience in relation to traffic conditions and streets? A. I was in the office, staff engineer, of the firm of Mace and Mace in Charlotte, North Carolina, consulting engineers, who constructed all kinds of things, from streets to hydro-electric plants.

Q. And you came from there to the State, and how long did you stay with the State of Maryland? A. 17 years.

Q. And were you with the State of Maryland when you were Chief Engineer of the Public Service Commission? A. That is a State agency.

Q. And how long were you Chief Engineer of the Public Service Commission? A. 17 years.

Q. As Chief Engineer of the Public Service Commission, you were, of course, familiar with this report to the Commission on City Plan of the City of Baltimore on Present and Proposed Facilities? A. No, the Public Service Commission had nothing to do whatsoever with that, and the fact is I never read a copy or never saw a copy of it until a few weeks ago. My duties with the State had to do with public utilities, transportation and otherwise, the operation, safety rules, schedules, rates and valuations and so forth of public utilities. They had nothing to do with utilities owned, or very little to do with utilities owned by municipalities, for the simple reason that property owned by the City is exempted from public utility regulation, and the utility serving the City of Baltimore is a private-owned utility.

Q. You did have something to do with the Baltimore Transit Company, did you not? A. Quite a bit, yes.

Q. And your contact with the Baltimore Transit Company required you to consider the traffic use of Baltimore City streets, did it not? A. Very definitely.

Q. Were you aware of the fact that in 1942 that report to the Commission on City Plan by the consulting engineers made the observation against the designation of McCulloh Street as a through highway on the ground that it traversed a solidly built negro section, with two large public schools facing it? A. No, I am not yet familiar with that; I never read it.

Q. Doesn't the fact that there are large public schools on a highway, does that constitute a material fact to be taken into consideration in the matter of the designation of the street as either a boulevard, express-way, through street, or what not? A. Does the existence of schools?

Q. Yes. Is the existence of schools facing on a street that near a factor to be taken into consideration in determining the character of the traffic use of the street? A. The traffic on the street, of course, is determined by the nature of the territory through which the street traverses.

(The Court) That isn't his question. What he wants to know is this: He wants to know whether, in effecting two through highways like we have under consideration, how much weight do you give before you designate them, to the fact that they are contiguous to schools. Isn't that what you want?

(Mr. Houston) That is right.

A. There was very little weight given to the mere fact that they are contiguous to schools, because when they are designated one-way streets, they are usually protected by traffic lights, and the street becomes a safer street in many respects than it is before. So the mere

fact that it traverses a school has nothing to do with it at all.

Q. (By Mr. Houston) Your conclusion about the matter of safer streets: You are acquainted with the accident evidence that has been introduced here as to St. Paul Street? A. I am.

Q. That doesn't bear out your conclusion? A. Yes, sir.

Q. It does? A. I think it does.

Q. You do not give consideration to the question of what injury you will do to the Park in the matter of designating your streets, do you? A. We give consideration to all damages, whatever they may be, and, in connection with a proposition like this, it is necessary to pick those streets that will cause the least damage and the greatest gain.

Q. By least damage you mean, at least as one factor, the damage to the Parkway passage, certainly? A. There would be no purpose in utilizing a park which is of general benefit to the public, if some other route could be obtained, just as well and, perhaps, better.

Q. Without consideration of the safety or convenience or property values of the neighborhood through which the route passes? Is that correct? A. No, that is not correct at all.

Q. You are familiar with the Smith report, you say, of 1945. That was an adoption, was it not, of the report for reconversion of the Baltimore Transit Company? A. No, the Baltimore Transit Company plan, modified very greatly from its original plan, was not adopted until 1946. There are certain things in the Smith report that were adopted by the Transit Company, and certain things in the Transit Company original discussions which appear to have been included in the Smith report.

Q. If you will just answer my question, as to whether the Smith report was not an adoption of the plan for

reconversion of vehicular traffic that was made by the Baltimore Transit Company, and in existence at the time of the Smith report? A. No, I don't know that, because you can see there are quite a number of differences.

Q. Will you point out wherein they are different? A. The Smith report covers only a small part of the conversion plan of the Baltimore Transit Company, a very small part of it.

Q. Well, then, state whether the Smith report as to that portion of the Baltimore Transit Company report was not an adoption of that particular portion of the BTC report? A. I would have to take each individual item, and take it item by item, to answer that question. It was, certainly, so far as I know, no blanket adoption of anybody's report.

Q. But you don't want to go on record as saying that the two reports did not actually coincide as to the or as to certain particular things in the Smith report? A. In certain things they coincided exactly.

Q. You are familiar, also, with Order 42685, in 1946, are you not, the Order of the Public Service Commission, passed October 9th, 1946? A. I don't remember it by number, but I am familiar with that. I was Chief Engineer of the Commission at the time that was adopted.

Q. Will you look on page 4, and tell us whether that order didn't contemplate sending the traffic, particularly the BTC route, taking it off Druid Hill Avenue and sending it down another street?

(Mr. O'Dunne) Objected to. The document speaks for itself.

(Objection overruled; exception noted.)

A. The Order tells the Baltimore Transit Company to reroute its electric railway and trackless trolley service in the following manner: The Number 5 Line, Pimlico-Patterson Park Line—following the present route from

the termini at Belvedere Car House and Manhattan Loop by Park Heights Avenue and Pennsylvania Avenue to Fulton Avenue, then by a new route continuing on Pennsylvania Avenue to North Avenue, to Madison Avenue, to Eutaw Street, to Lombard Street, to South Street, to Pratt Street, to Calvert Street, to Lombard Street, returning over same route.

Q. That is the line which was on Druid Hill Avenue, is it not? A. Yes; I think part of the distance on Druid Hill.

Q. And on Druid Hill in this very territory that we are talking about, over McMechen and Mosher, and the other streets? A. That's true.

Q. That line served this northwest territory that you have talked about as having such a heavy traffic flow, is that correct? A. That's true.

Q. So that in 1946 the Public Service Commission, of which you were Chief Engineer, considering the desirability of Druid Hill Avenue, and also of Madison Avenue and Pennsylvania Avenue, passed that order, taking the traffic off Druid Hill, on to these other streets in this area? A. That's true. It is necessary to get two-way street car operation off of a street before you can make it one-way. We did it up on Maryland Avenue.

(The Court) He says that because he realizes how difficult it has been over a period of two years to get it off Maryland Avenue.

Q. (By Mr. Houston) The point there in making a one-way movement, your Commission and you as Chief Engineer moved it off Druid Hill and placed it, one on Pennsylvania and the other on Madison? A. That's correct.

Q. When was the Auchentoroly Terrace cut-off finished? A. A year ago this month, a year ago next month, I believe it was.

Q. Is it not true that you have stated that the Auchentoroly Terrace cut-off is practical only in connection with the designation of McCulloh Street and Druid Hill Avenue as one-way streets? A. If it had not been contemplated, it wouldn't have been built.

Q. And at the present time it has been boarded off and not used, because Druid Hill Avenue and McCulloh Street are not used as one-way streets? A. Because of this litigation right here, exactly.

Q. And, also, the Auchentoroly Terrace cut-off was made as a means of doing minimum damage to Druid Hill Park, was it not? A. That is one of the factors. If you will look at the map you will find this direct route not only minimizes the damage to the Park but furnishes the most direct route from the Carlin's Park area downtown.

Q. So the final decision, then, necessarily, was to make Druid Hill Avenue and McCulloh Street one-way streets when the decision was made to build the Auchentoroly Terrace cut-off, at a cost to the City of \$400,000.00. A. No, you have the cart before the horse. When the decision was made to make Druid Hill Avenue and McCulloh Street one-way streets, then the decision was made and construction actually started on the connecting link to take that over to a connection at Carlin's Circle.

Q. When was the decision made to make Druid Hill Avenue and McCulloh Streets one-way streets, if it was made before the construction of the Auchentoroly Terrace cut-off was begun? A. I don't know the exact date, but it stemmed from the Smith report in 1945, I presume. It was recommended at that time.

Q. Does your department install traffic lights? A. No, sir, the Police Department.

Q. And your Department has received no special instructions concerning Druid Hill Avenue and McCulloh Street since January 1st, 1948? A. What do you mean "no instructions"?

Q. What instructions has your Department received to your personal knowledge, concerning Druid Hill Avenue and McCulloh Street, since January 1st, 1948? A. We received no instructions. I don't know where we would get such instructions.

Q. The answer is no? A. Very definitely, unless you assume that the passage of that Ordinance, which was in 1948, is an instruction. We propose to resurface the streets, improve them very materially, in accordance with the plan which is approved by the City Council. That might be construed to be an instruction.

Q. You have testified here as to the history of this matter, and I will ask whether your deposition was taken in this case on or about October 8th, 1948? A. It was.

Q. I will ask you if this question, if you recall this question being put to you: "What is the first time that the proposition about making McCulloh Street and Druid Hill Avenue expressways first came to your special attention? A. I can't give you the exact date. It was sometime after I took office in January that there was discussion in my office about the two arteries." I can't give you the exact date. Do you recall that answer? A. I do.

Q. So that at the present time the only thing you can testify to personally is the fact that after taking office on the 20th of January, 1948, there was some discussion in your office about making Druid Hill Avenue and McCulloh Street one-way streets, that is the first time it came to your personal attention?

(The Court) You said something about 1946?

(Question read by the Reporter.)

A. The discussion was not about making them one-way streets. They had at that time been designated by the Council as one-way streets, and our problem was to hook them up physically to the east as one-way streets.

Q. (By Mr. Houston) That is the first time the matter came to your attention? A. That is the first time personally. It was a matter under discussion when I took office. At that time the marginal road in Druid Hill was under construction, and it was finished a few weeks after I took office, and we immediately proceeded to begin negotiations for acquiring a vacant parking lot at the south end of Druid Hill, in order to connect up and make them useful.

Q. At the time you were Chief Engineer of the Public Service Commission, were you acquainted with the number of schools in the area from North Avenue down to Biddle Street? A. No, sir. Only in a general way. I rode the lines quite often but had no detail on it.

Q. Are you acquainted with the fact that the area through which the traffic will pass on this one-way thoroughfare, those one-way streets, is a very heavily, densely populated area? A. I have heard that testimony and have observed it personally.

Q. Did you give that any consideration in the question of determining the desirability of the traffic movement on those streets? A. Did I give it any?

Q. Yes. A. The matter was decided before I came into the picture at all, but, whether it had been decided or not, that would not have been a controlling factor. As I said, it's a question of moving people from where they are to where they want to go, and we must move them in the most convenient method, ways, at the lowest or the least mechanical cost, taking all things into consideration, and they must be moved safely.

(The Court) Isn't it a fact that they tend to go in the most direct way, anyhow?

(The Witness) They go in the most direct way.

(The Court) The question is whether you provide them freer access?

(The Witness) At the present time that is true. In that particular area the traffic waves first one way and then the other down there, but it comes from the northwest into the central district, a tremendous lot of it. Their attempt is to provide a safe and economical and speedy means of getting to their destination, over the most direct available route.

Q. (By Mr. Houston) Would you say that the heavy movement of one-way traffic in a residential area on a fairly narrow street would have any effect upon residential values, and the desirability of that area as a residential neighborhood?

(Objected to.)

A. Increased traffic is always detrimental to a certain extent to residential properties; there is no question about that. The problem is how to minimize the damage and at the same time take care of those problems which must be solved. We can not surround the downtown area with a Chinese Wall. We have got to get the people in. At the present time all of that traffic, a large part of that traffic coming from the northwest is proceeding over Mount Royal and coming down Calvert and going back to St. Paul, as a result of which the traffic on those two streets is tremendously congested, and getting worse every day.

(The Court) We have had a lot of talk here about the fact tending to show that the, or assuming that one-way streets are more dangerous, from a pedestrian standpoint, than two-way streets: Have you any experience on that?

(The Witness) Very much. If they are properly lighted, traffic-lighted, a one-way street is much less hazardous than a two-way street, for one-way traffic, for pedestrian traffic. When you have traffic moving in opposite directions, just as at a grade crossing with a vehicle, you would be watching one side and disregarding traffic coming in the other direction; the same with pedestrians.

If you have occasion to watch traffic on your right only, and the intersections are properly marked and properly controlled, it is much safer, vastly safer; you haven't anything like the number of turning movements with one-way traffic. When you have traffic on your right only, you have that traffic only to watch, no other turning movements to confuse you, or crossing thoroughfares.

(The Court) I gather from what has been said in the course of this case that the making of these two streets as one-way streets is part of an overall plan for the entire city, is that correct?

(The Witness) That is true. It will be necessary to make many others one-way, in order to handle traffic. We have to make, to construct free-ways or through-ways into the downtown section, and do that for many years to come. It's a question of utilizing our facilities in the most economical and the safest manner. We have to do it.

The meeting in my office yesterday was considering several other one-way arteries.

(The Court) You mentioned about Mount Royal traffic a few minutes ago. It is true that traffic is very heavy at the present time on Mount Royal Avenue from the northwestern part of the city, that is true? That is, the suburbs? A. The traffic which we hope to handle on Druid Hill and McCulloh is coming down the dual highway and following through Park Drive to Mount Royal, and coming down to North Avenue, some coming down Cathedral Street, some Maryland, but a large part of it going over to St. Paul Street, which is the easternmost of the one-way southbound streets. That, in turn, brings about crossings at Charles and Mount Royal to St. Paul and Mount Royal.

(The Court) I assume your expectation and hope is that the making of these two streets into one-way highways will drain off some of that traffic?

(The Witness) Of course, Charles and Cathedral and Maryland will drain off some of the flood traffic coming in directly from where it originates to where it wants to go.

Q. (By Mr. Houston) In connection with your statement that one-way traffic makes for safer conditions, how do you explain this traffic accident list on St. Paul Street? A. This is the total number of accidents, not the total accidents for a thousand vehicles involved. You must take into consideration that you have got nearly double the amount of traffic on those streets. This started thirty-one, the total number of accidents then was ninety. Then there were one hundred and nine. That has no connection at all with the amount of traffic you have got there.

Q. But, as far as residents are concerned, the number actually increases, doesn't it? A. No, so far as residents are concerned, I don't know that these are all residents involved in these accidents.

Q. Tell us about this overall plan. Does that exist now? A. Not in its entirety. The City Planning Commission is engaged now, at the present time, in drafting an overall highway program. It is partly complete but not in final form by any means. The Transit Company is proceeding, and I just dictated a letter a few minutes ago to the Transit Company, urging them to give me their latest report on their conversion program, which must tie in with our City action, and we at the same time are planning additional streets, additional paving, cut-offs, and various and sundry things to expedite the flow of traffic from where it is to where it wants to go. There is nothing fixed about it yet. It is in the period of preparation, but steps, and numerous steps are being taken to complete the program. Of course, it is never complete, and the Planning Commission is charged with keeping it up to date, from year to year.

Q. Tell us in what stage it was in January, 1948? A. I can not answer that question. I couldn't tell you the percentage of completion at all. At that time, in connection with one-way streets, we had two east and west streets, Mulberry and Franklin; we had at that time two north and south streets, Calvert and St. Paul, with two additional north and south Charles and Cathedral under consideration. We had the Druid Hill Avenue and McCullon under consideration. We have the Orleans-Jefferson under consideration, going out east. We have under consideration and plans made for many arterial streets in the city, bring them into the outlying sections, and sometimes all the way down to the constriction area.

Q. Talking about Druid Hill Avenue and McCulloh Street, at that time the Auchentoroly Terrace cutoff had already been completed? A. It was completed about a year ago.

Q. So you didn't have Druid Hill Avenue and McCulloh Street under consideration, if you had already decided on it, by virtue of the fact that you had to decide on it before? A. It had been decided upon heretofore by the City Council at that time.

Q. Before the Auchentoroly Terrace cutoff was completed? A. No, it wasn't approved until the Ordinance was approved, I think in May sometime.

Q. I am talking about the decision—I am not talking about the Ordinance—I am talking about the decision of the City officials to make Druid Hill Avenue and McCulloh Street one-way streets: That was made before they permitted the City to build the Auchentoroly Terrace cutoff? A. Certainly. There wouldn't be any purpose in building the cutoff, if there had been some place to hook them up to.

Q. How long did it take to build the Auchentoroly Terrace cutoff? A. About four or five months.

Q. So you would say the Auchentoroly Terrace cutoff was completed a year ago, which was January, 1948; then,

the decision had to be made sometime not later than mid-summer, 1947? A. It was made prior to that time, definitely.

* * * * *

PLAINTIFFS' EXHIBIT NO. 2

August 9, 1946

Mr. R. Brooke Maxwell, Director of Parks
Department of Public Parks and Squares
Madison Avenue entrance to Druid Hill Park
Baltimore 17, Maryland

Dear Mr. Maxwell:

I am forwarding herewith the plan and profile of the proposed dual highway along the northwest boundary of Druid Hill Park, to connect Druid Hill Avenue and McCulloh Street with Reisterstown Road.

In preparing this plan, we have purposely given no consideration to providing vehicular access to and from this highway for persons desiring to use the Park facilities, such as the zoo, picnic grounds, etc., and suggest that the location for these connections be determined by your staff, who are more familiar with the traffic created by the use of these facilities. If the alignment and grade of this highway are satisfactory to you, it is requested that you secure formal approval of this project from the Board of Park Commissioners, in order that we can proceed with the preparation of the contract for this work.

If the Baltimore Transit Company reconversion plan is approved by the Public Service Commission, we hope to advertise this contract soon after the details pertaining to the reconversion are decided.

Very truly yours,

CHIEF ENGINEER

gac:lb

Copy to: Mr. William N. D. Fischer,
Highways Engineer

PLAINTIFFS' EXHIBIT NO. 3

March 10, 1948

FROM : C. O. Traffic Engineering Bureau
 TO : The Chief Inspector
 SUBJECT : Proposed Ordinance No. 378
 Druid Hill Avenue—McCulloh Street (etc.)
 One-Way Streets Project

Returned herewith is letter of March 9, 1948 from James H. McKay, Highways Engineer, relative to proposed ordinance No. 378.

Respectfully recommend that this ordinance be passed as proposed.

BERNARD J. SCHMIDT

Captain

HENRY C. KASTE

Captain

BJS/rjr
 Copied 4/14/49
 rjr

PLAINTIFFS' EXHIBIT NO. 4

January 6, 1948

FROM : C. O. Traffic Engineering Bureau
 TO : The Chief Inspector
 SUBJECT : Estimate of Costs—Traffic Signals & Signs
 Druid Hill Ave.—McCulloh St. One-Way
 Project

Incident to the proposed designation of Druid Hill Avenue and McCulloh Street as "One-Way" thoroughfares, we have estimated the cost of the necessary signs and additional signals required, as shown below.

In addition to the "ONE-WAY", "STOP—DO NOT ENTER" "PARKING" and other miscellaneous signs,

it will be highly desirable to designate Druid Hill Avenue, Gwynn's Falls Parkway, the New Park Drive and certain sections of Paca Street as "Boulevards".

In developing this estimate, no charge has been made for the labor involved in making the signs, and the cost involves only that which will be incurred for materials.

ESTIMATED COST OF SIGNS

310	"PARKING" signs	\$ 186.00
175	"STOP" signs	1326.10
145	"ONE-WAY" signs	174.00
100	"STOP—DO NOT ENTER" signs	60.00
35	"NO RIGHT TURN" signs.....	17.50
35	"NO LEFT TURN" signs.....	17.50
50	Miscellaneous signs	112.50
690	Channel Iron Posts	1794.00
TOTAL COST OF SIGNS		<u>\$3687.60</u>

#2

January 6, 1948

TO: The Chief Inspector

Druid Hill Ave.—McCulloh St. One-Way Project

In order to control speed on these thoroughfares, and at the same time to afford an opportunity for cross traffic to proceed in safety, it is desirable to install signal equipment at the several intersections listed below, the estimated cost of which is indicated in each case.

ESTIMATED COST—ADDITIONAL SIGNALS

McCulloh & Whitelock Sts.....	\$ 1209.50
McCulloh & Presstman Sts.....	2279.50
McCulloh & McMechen Sts.....	1763.40
McCulloh & St. Mary's Sts.....	1279.50
Druid Hill Ave. & Whitelock St.....	856.60
Druid Hill Ave. & Presstman St.....	2329.50
Druid Hill Ave. & McMechen St.....	1763.70
Druid Hill Ave. & Lafayette Ave.....	1129.50
Druid Hill Ave. & Dolphin St.....	1249.50
Druid Hill Ave. & Biddle St.....	1189.50
Garrison Blvd. & Gwynns Falls Pkwy.....	1683.40
Saratoga & Paca Sts.....	1682.90
Saratoga & Eutaw Sts.....	1682.90

TOTAL NEW SIGNAL INSTALLATION \$19919.40

At several intersections along these streets, the existing location of the signal would prove hazardous and the present method of installation impracticable under "One-Way" operation. The estimated cost of relocating existing signals and providing proper installation is as follows:

McCulloh St. & North Ave.....	\$ 560.00
McCulloh St. & Lafayette Ave.....	560.00
McCulloh St. & Dolphin St.....	560.00
McCulloh St. & Biddle St.....	560.00
Druid Hill Ave. & North Ave.....	350.00
Druid Hill Ave. & St. Mary's St.....	560.00
10,000' 7 Cond. #10 U. G. Cable.....	6000.00
6—Synchronous Controls	1560.00

TOTAL—RELOCATION OF
EXISTING SIGNALS..... \$10710.00

January 6, 1948

#3

TO: The Chief Inspector
Druid Hill Ave.—McCulloh St. One-Way Project.

SUMMARY

SIGNS	\$ 3,687.60
New SIGNAL INSTALLATION.....	19,919.40
RELOCATION EXISTING SIGNALS....	10,710.00
	<hr/>
GRAND TOTAL	\$34,317.00

In order to provide a safe and expeditious movement of traffic along these several streets when "One-Way" Provisions are put into effect, it is recommended that application be made to the Board of Estimates to appropriate this money immediately.

Respectfully,

BERNARD J. SCHMIDT

Captain

BJS/rjr





MAP OF BALTIMORE CITY

PREPARED AND ISSUED BY THE
PLANNING COMMISSION
DEPARTMENT OF PLANNING
1947-48

THOMAS D'ALESSANDRO, JR., MAYOR
THOMAS F. HUBBARD, CHIEF ENGINEER
JOHN J. LANG, SECRETARY ENGINEER

SCALE 1:50,000 (1" = 1.25 MILES)

LEGEND

	CEMETERY		SCHOOL
	CHURCH		PUBLIC PARK
	INDUSTRIAL AREA		WATERWAY
	RESIDENTIAL AREA		ELECTRIC RAILWAY

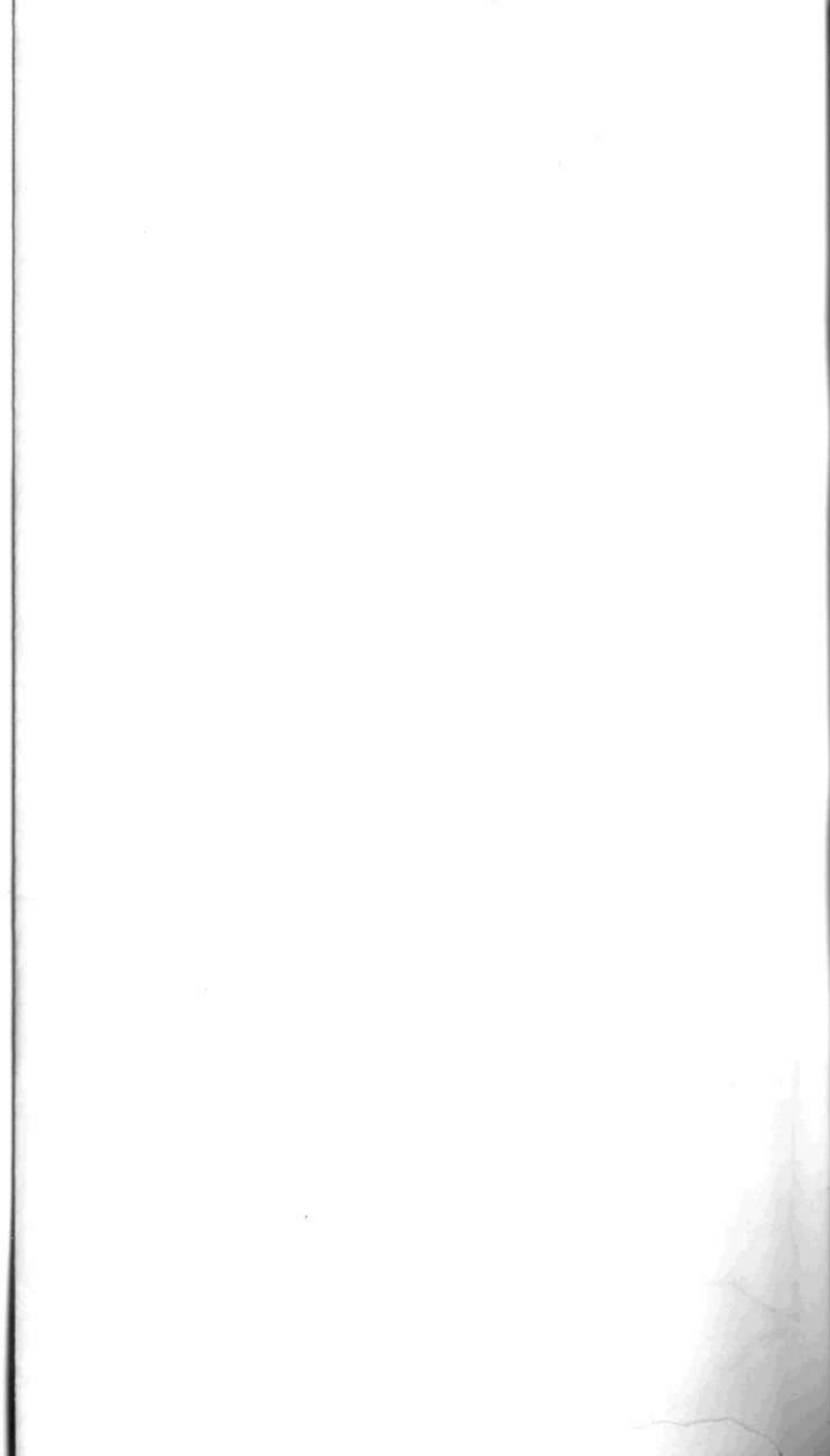
PRICE \$1.00

DEFENDANTS' EXHIBIT NO. 5

LEGEND.

DISTRICT #1 WARDS 1-2-3&5-6-7&10-26.

- " #2 " 8-9&12-13-14.
- " #3 " 4&27.
- " #4 " 11&15-16-17&28.
- " #5 " 18-19-20-21-22-23-24-25.



CALVERT ST.

33RD ST.

PLAINTIFFS' EXHIBIT NO. 6

3081

29TH ST.

24 HOUR COUNT

10,613

11,646

25TH ST.

13,296

LANYALE ST.

16,157

16,181

MIROYAL AVE.

16,219

PRESTON ST.

16,369

15,799

BIDDLE ST.

16,624

CENTRE ST.

14,948

FAYETTE ST.

11,760

10,535

LEGEND

- TRAFFIC VOLUME BEFORE CONVERSION
 ——— TRAFFIC VOLUME INCREASE AFTER CONVERSION.
 ///// TRAFFIC VOLUME DECREASE AFTER CONVERSION.

CALVERT ST.

BEFORE & AFTER VOLUME STUDY.

BEFORE- MAY 9, 1947

AFTER- NOV 5, 1947

ONE-WAY OPERATION JUNE 22, 47

Scale=1"=12,000 VEHICLES

murphy Ex 3

PLAINTIFFS' EXHIBIT NO. 7

POLICE DEPARTMENT
CITY OF BALTIMORE

Form 121—P. B.

ACCIDENT SURVEY
SAINT PAUL STREET

Centre Street to Thirty First Street

SUMMARY

	"BEFORE"		"AFTER"		
	June 22, 1946 to June 21, 1947		June 22, 1947 to June 18, 1948		
			Before	After	De-crease %
Total number of accidents.....	90	109	19		21.1
Accidents involving personal injury.....	31	42	11		35.4
Accidents involving property damage....	59	67	8		13.5
Intersectional accidents	65	88	23		35.3
Inter-block accidents	25	21		4	16.0
Accidents involving turning movements..	8	25	17		221.0
Accidents involving pedestrians.....	15	18	3		20.0
Rear-end accidents	8	10	2		25.0
Accidents involving parked cars.....	8	8			0.0
1st six months of 1946	46 accidents				
1st six months of 1948	—42 "				
	4 decrease (8.2%)				

PLAINTIFFS' EXHIBIT NO. 8

PLANNING COMMISSION

JULY 8, 1948

EXCERPT FROM MINUTES OF MEETING OF
COMMISSION ON CITY PLAN

September 25, 1946

Opening and Extension of Auchentoroly Terrace,
Cloverdale Road to Reisterstown Road and Anoka
AvenueA plan was presented by Mr. Carter which calls for an
extension of Auchentoroly Terrace as a main traffic

artery from Cloverdale Road through the southwest edges of Druid Hill Park to Anoka Avenue and Reisterstown Road.

The connection in the vicinity of Cloverdale Road would provide arteries for the future one-way street system so that southbound traffic would travel over Druid Hill Avenue and northbound traffic would use McCulloh Street. The Auchentoroly Terrace cut-off would be a dual highway to connect with Reisterstown Road. The whole project is integrated in a one-way street system plan and the reconversion of Baltimore Transit facilities. The dual highway will have two 40-foot drives with a median strip of variable widths, with a minimum damage to park property. It was pointed out that other areas now used by traffic roadways could be reclaimed for park purposes, and that the plan has the concurrence of the Park Department.

After a general review of the plan and the questioning of Mr. Carter on various aspects of the improvement, the following action was taken:

Mr. Pagon moved, seconded by Mr. Sloman, that the Commission on City Plan approve the opening and extension of Auchentoroly Terrace as a dual highway along the southwest edge of Druid Hill Park from Cloverdale Road to Reisterstown Road and Anoka Avenue, in accordance with a plan in the possession of the Chief Engineer's office.

The motion was adopted by six members of the Commission, Mr. Berry voting "No."

PLAINTIFFS' EXHIBIT NO. 9

(Amended)

Introduced by the President, by request.
City Council 378

March 18, 1948

ORDINANCE NO. 169

An ordinance making Druid Hill Avenue, from Fulton Avenue to Eutaw Street, Paca Street, from Druid Hill Avenue to Franklin Street, McCulloh Street, from Eutaw Street to Cloverdale Road, and Auchentoroly Terrace, from Holmes Avenue to Fulton Avenue, one-way streets for vehicular traffic; regulating the parking of vehicles on Druid Hill Avenue, between Fulton Avenue and Eutaw Street, on Paca Street, between Druid Hill Avenue and Franklin Street, on McCulloh Street, between Eutaw Street and Cloverdale Road, on Auchentoroly Terrace, between Holmes Avenue and Orem Avenue, on Liberty Heights Avenue, between Reisterstown Road and Auchentoroly Terrace and on Reisterstown Road, between Park Circle and Anoka Avenue; and repealing Ordinance No. 416, approved May 22, 1928, and all other ordinances inconsistent with the provisions of this ordinance.

By the CITY COUNCIL OF BALTIMORE, Jan. 12, 1948.

Introduced, read first time and referred to the Committee on Police and Jail and the Police Commissioner.

By order, EDWARD P. O'MALLEY, Chief Clerk.

REPORT OF COMMITTEE.

Favorable, with amendments.

JACOB J. EDELMAN, Chairman,
MEDIO WALDT,
SIMON P. JAROSINSKI,
WALTER J. DEWEES,
JOHN J. McMENAMEN,
JOHN T. BOOTH,

Committee.

By the CITY COUNCIL OF BALTIMORE, March 1, 1948.

Reported favorably by the Committee on Police and Jail, with proposed amendments; amendments adopted; read second time and ordered printed for third reading.

By order, EDWARD P. O'MALLEY, Chief Clerk.

By the CITY COUNCIL OF BALTIMORE, March 8, 1948.

Placed on third reading; amendments offered from the floor; amendments adopted; read as amended, and ordered reprinted, as amended, for third reading.

By order, EDWARD P. O'MALLEY, Chief Clerk.

ORDINANCE

No.

An ordinance making Druid Hill Avenue, from Fulton Avenue to Eutaw Street, Paca Street, from Druid Hill Avenue to Franklin Street, McCulloh Street, from Eutaw Street to Cloverdale Road, and Auchenoroly Terrace, from Holmes Avenue to Fulton Avenue, one-way streets for vehicular traffic; regulating the parking of vehicles on Druid Hill Avenue, between Fulton Avenue and Eutaw Street, on Paca Street, between Druid Hill Avenue and Franklin Street, on McCulloh Street, between Eutaw Street

and Cloverdale Road, on Auchentoroly Terrace, between Holmes Avenue and Orem Avenue, on Liberty Heights Avenue, between Reisterstown Road and Auchentoroly Terrace, and on Reisterstown Road, between Park Circle and Anoka Avenue; and repealing Ordinance No. 416, approved May 22, 1928, and all other ordinances inconsistent with the provisions of this ordinance.

SECTION 1. *Be it ordained by the Mayor and City Council of Baltimore,* (a) That Druid Hill Avenue, from Fulton Avenue to Eutaw Street, be and it is hereby declared to be a one-way street for vehicular traffic, and to be used by said traffic in a southerly direction only.

(b) Paca Street, from Druid Hill Avenue to Franklin Street, is hereby declared to be a one-way street for vehicular traffic, and shall be used by said traffic in a southerly direction only.

(c) McCulloh Street, from Eutaw Street to Cloverdale Road, is hereby declared to be a one-way street for vehicular traffic, and shall be used by said traffic in a northerly direction only.

(Page 2)

(d) Auchentoroly Terrace, from Holmes Avenue to Fulton Avenue, is hereby declared to be a one-way street for vehicular traffic, and shall be used by said traffic in a southerly direction only.

SEC. 2. *And be it further ordained,* (a) That between the hours of 7.30 A. M. and 10.00 A. M. and between the hours of 4.00 P. M. and 6.00 P. M., on any day, except on Sundays, no vehicle shall be permitted to stand on the east side of Druid Hill Avenue, between Fulton Avenue and Eutaw Street, longer than actually necessary to take on or discharge passengers, or passengers' baggage transported on the same vehicle, but shall not load or unload merchandise.

(b) Between the hours of 7.30 A. M. and 10.00 A. M. and between the hours of 4.00 P. M. and 6.00 P. M., on any day, except on Sundays, no vehicle shall be permitted to stand on the east side of Paca Street, between Druid Hill Avenue and Franklin Street, longer than actually necessary to take on or discharge passengers, or passengers' baggage transported on the same vehicle, but shall not load or unload merchandise.

(c) Between the hours of 7.30 A. M. and 10.00 A. M. and between the hours of 4.00 P. M. and 6.00 P. M., on any day, except on Sundays, no vehicle shall be permitted to stand on the west side of McCulloh Street, between Eutaw Street and Cloverdale Road, longer than actually necessary to take on or discharge passengers, or passengers' baggage transported on the same vehicle, but shall not load or unload merchandise.

(d) Between the hours of 7.30 A. M. and 10.00 A. M. and between the hours of 4.00 P. M. and 6.00 P. M., on any day, except Sundays, no vehicle shall be permitted to stand on the east side of Auchentoroly Terrace, between Holmes Avenue and Orem Avenue, longer than actually necessary to take on or discharge passengers, or passengers' baggage transported on the same vehicle, but shall not load or unload merchandise.

(e) No vehicle shall be permitted to stand, at any time, on the north side of Liberty Heights Avenue, between Reisterstown Road and Auchentoroly Terrace, longer than actually necessary to take on or discharge passengers, baggage or merchandise.

(f) No vehicle shall be permitted to stand on the west side of Reisterstown Road, between Park Circle and Anoka Avenue, longer than actually necessary to take on or discharge passengers, or passengers' baggage transported on the same vehicle, but shall not load or unload merchandise, between the hours of 7.30 A. M. and 10.00 A. M., on any day, except on Sundays.

(g) No vehicle shall be permitted to stand on the east side of Reisterstown Road, between Anoka Avenue and Park Circle, longer than actually necessary to take on or discharge passengers, or passengers' baggage transported on the same vehicle, but shall not load or unload merchandise, between the hours of 4.00 P. M. and 6.00 P. M., on any day, except on Sundays.

SEC. 3. *And be it further ordained*, That any person violating the provisions of this ordinance shall be subject to a penalty not exceeding Twenty-five Dollars (\$25.00) for each and every offense.

SEC. 4. *And be it further ordained*, That Ordinance No. 416, approved May 22, 1928, is hereby repealed, and all other ordinances, or parts of ordinances, inconsistent

(Page 4)

with the provisions of this ordinance, are hereby repealed to the extent of such inconsistency.

SEC. 5. *And be it further ordained*, That the provisions of this ordinance shall become effective upon the abandonment of rail or fixed wheel traffic on Druid Hill Avenue, between Fulton Avenue and Paca Street, and on Paca Street, between Druid Hill Avenue and Franklin Street.

Approved

.....
Mayor of Baltimore City.

.....
President of the City Council of Baltimore.

Presented to His Honor, the Mayor, this
day of 194....

EDWARD P. O'MALLEY, Chief Clerk.

PLAINTIFFS' EXHIBIT NO. 10

NO. 2 PROJECT

DRUID HILL AVENUE—MCCULLOH STREET
ONE-WAY

The City Plan provides that Druid Hill Avenue and McCulloh Street be made one-way streets to connect with an Expressway through the western edge of Druid Hill Park to Park Circle, and later along Druid Park Drive and Greenspring Avenue. Eventually the driveways on Park Heights Avenue are to be widened, using the present track area. The Chief Engineer of the City has requested the Company to take steps to meet this plan.

This will require the discontinuance of street car operation on Druid Hill Avenue and on Whitelock Street and Linden Avenue north of North Avenue, and on the loop track on McCulloh Street, making it necessary to reroute two car lines, namely:

No. 5-33—Pimlico-Patterson Park

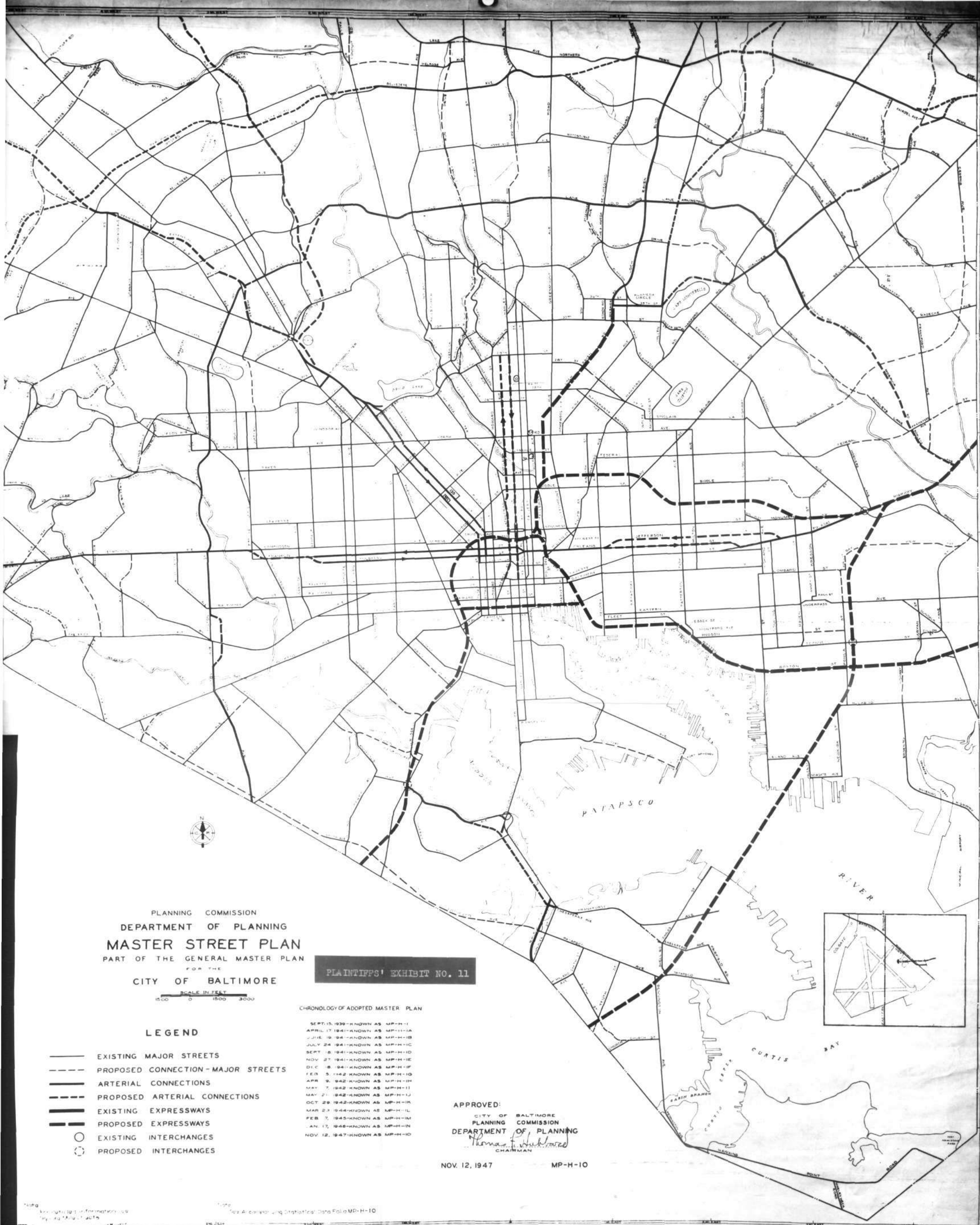
No. 32—Woodlawn

Eventually, with the completion of the Expressway to Park Circle and the widening of the driveways on Park Heights Avenue, buses will be substituted for street cars on the No. 5-33 line, operating as an Express line by way of Park Heights Avenue, the Expressway and Druid Hill Avenue and McCulloh Street to and from the downtown sections of Baltimore.

When the 5-33 line is changed to a bus line it will be necessary to change the No. 31-Garrison Boulevard line to a free-wheel line.

FREE WHEELING ON FREMONT AVENUE

The details of the immediate changes, that is the change in the route of the No. 32 car line and of the route of the No. 5-33 line, as long as it remains a car line, are indicated on the No. 2 Project map. A description of the changes in the routes of these two lines follows.



PLANNING COMMISSION
DEPARTMENT OF PLANNING
MASTER STREET PLAN
PART OF THE GENERAL MASTER PLAN
FOR THE
CITY OF BALTIMORE

SCALE IN FEET
1500 0 1500 3000

LEGEND

- EXISTING MAJOR STREETS
- - - PROPOSED CONNECTION-MAJOR STREETS
- ARTERIAL CONNECTIONS
- - - PROPOSED ARTERIAL CONNECTIONS
- EXISTING EXPRESSWAYS
- - - PROPOSED EXPRESSWAYS
- EXISTING INTERCHANGES
- PROPOSED INTERCHANGES

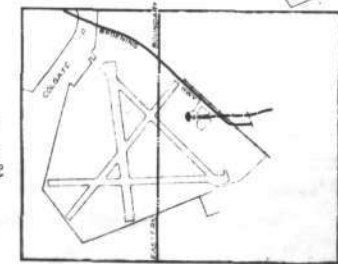
CHRONOLOGY OF ADOPTED MASTER PLAN

SEPT. 15, 1939—KNOWN AS MP-H-1
APRIL 17, 1941—KNOWN AS MP-H-1A
JUNE 19, 1941—KNOWN AS MP-H-1B
JULY 24, 1941—KNOWN AS MP-H-1C
SEPT. 8, 1941—KNOWN AS MP-H-1D
NOV. 27, 1941—KNOWN AS MP-H-1E
DEC. 8, 1941—KNOWN AS MP-H-1F
FEB. 5, 1942—KNOWN AS MP-H-1G
APR. 9, 1942—KNOWN AS MP-H-1H
MAY 7, 1942—KNOWN AS MP-H-1I
MAY 21, 1942—KNOWN AS MP-H-1J
OCT. 29, 1942—KNOWN AS MP-H-1K
MAR. 23, 1944—KNOWN AS MP-H-1L
FEB. 7, 1945—KNOWN AS MP-H-1M
JAN. 17, 1946—KNOWN AS MP-H-1N
NOV. 12, 1947—KNOWN AS MP-H-1O

APPROVED:
CITY OF BALTIMORE
PLANNING COMMISSION
DEPARTMENT OF PLANNING
Thomas F. Hubbard
CHAIRMAN

NOV. 12, 1947

MP-H-10



PLAINTIFFS' EXHIBIT NO. 23

September 27, 1948

Commissioner Hamilton R. Adkinson
Commissioner of Police
Central Police Station
Baltimore, Maryland

Dear Commissioner:

This organization desires the information listed below and it is understood that much of such information is obtained from the tablets of the Engineer's office. We sincerely hope that your office will authorize the Traffic Engineer's office to forward us the following information:

(1) Vehicle traffic flow on Monroe Street before and after April, 1929.

(2) Vehicle traffic flow for Franklin Street before and after December, 1936.

(3) Vehicle traffic flow for Mulberry Street before and after July, 1942.

(4) Vehicle traffic flow for Calvert and St. Paul Streets before and after their conversion into one way streets.

(5) Vehicle traffic flow on McCulloh and Druid Hill Avenue—

A—Before March, 1948

B—Since April, 1948 and

C—Estimated future load when converted into one-way thoroughfares.

(6) Accident rates, both vehicle and pedestrian, on McCulloh Street and Druid Hill Avenue for 1948.

(7) Accident rates, vehicle and pedestrian, for St. Paul and Calvert Streets prior and after their conversion to one-way streets.

(8) Accident rates for Franklin and Mulberry Streets prior and after their conversion into one-way streets.

Will you kindly request the Traffic Engineering Department to furnish us with this information at the earliest possible date.

Yours truly,

MILTON P. BROWN
Executive Secretary

MPB/ahm

PLAINTIFFS' EXHIBIT NO. 24

(Seal)

Hamilton R. Atkinson
Commissioner
George J. Brennan
Secretary

POLICE DEPARTMENT
BALTIMORE 2, MARYLAND
Office of the Commissioner

October 4, 1948.

Mr. Milton P. Brown, Executive Secretary,
National Association for the Advancement of
Colored People,
402 Dolphin Street,
Baltimore 17, Maryland.

Dear Mr. Brown,

This will acknowledge your letter of September 27 requesting certain vehicular traffic flow data.

Please be advised that the information desired is not available.

Very truly yours,

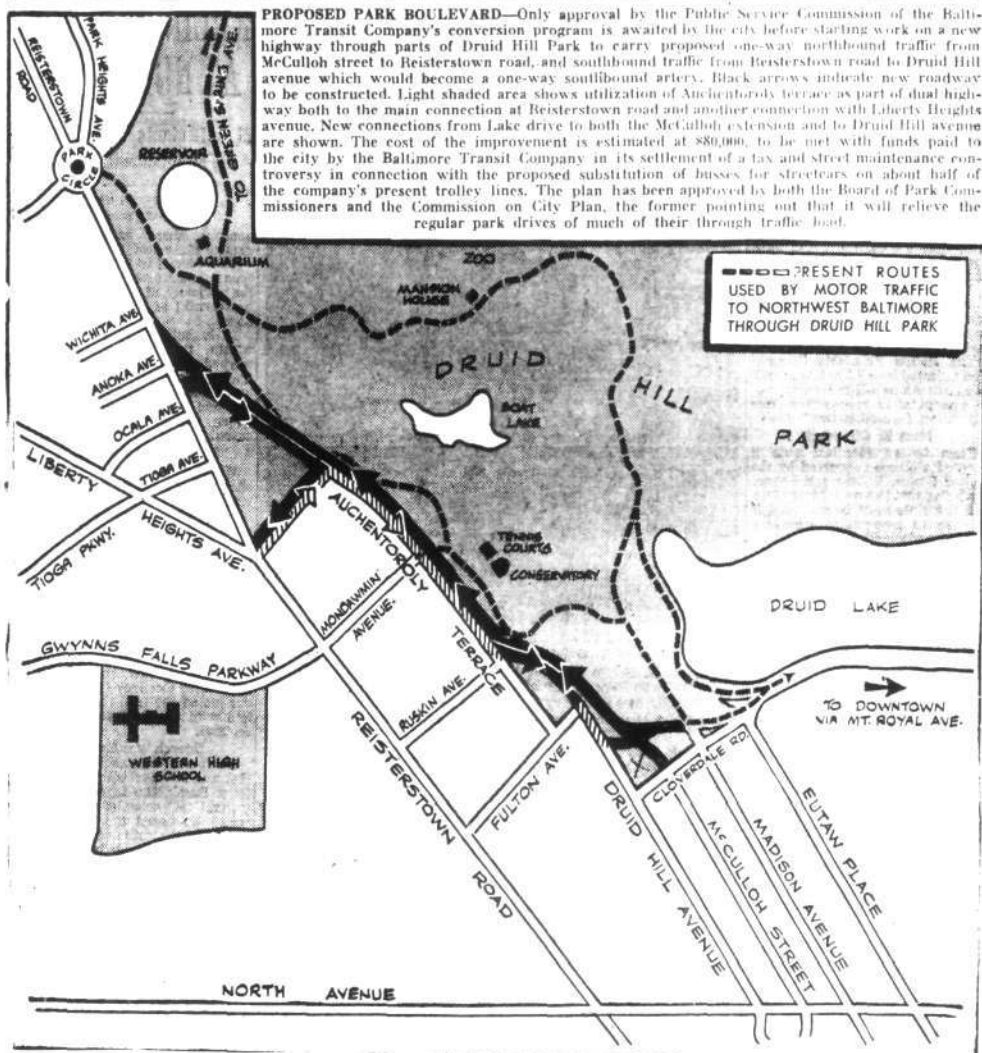
HAMILTON R. ATKINSON,
Hamilton R. Atkinson,

Police Commissioner.

L.

DEFENDANTS' EXHIBIT NO. 1

MORNING, SEPTEMBER 30, 1946





MAP OF BALTIMORE CITY

PREPARED AND ISSUED BY THE
PLANNING COMMISSION
DEPARTMENT OF PLANNING
1947-48

THOMAS D'ALESSANDRO, JR., MAYOR
THOMAS F. HUBBARD, CHAIRMAN
JOHN J. LANG, SECRETARY-ENGINEER

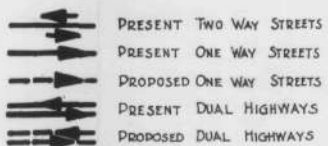
SCALE 1 INCH = 1000 FEET

LEGEND


PRICE \$1.00

DEPENDANTS' EXHIBIT NO. 2

LEGEND


 PRESENT TWO WAY STREETS
 PRESENT ONE WAY STREETS
 PROPOSED ONE WAY STREETS
 PRESENT DUAL HIGHWAYS
 PROPOSED DUAL HIGHWAYS

DATE: DECEMBER 20, 1948



DEFENDANTS' EXHIBIT NO. 3

POLICE DEPARTMENT
CITY OF BALTIMORE

Form 121—P. B.

ACCIDENT SURVEY SUMMARY

CALVERT STREET

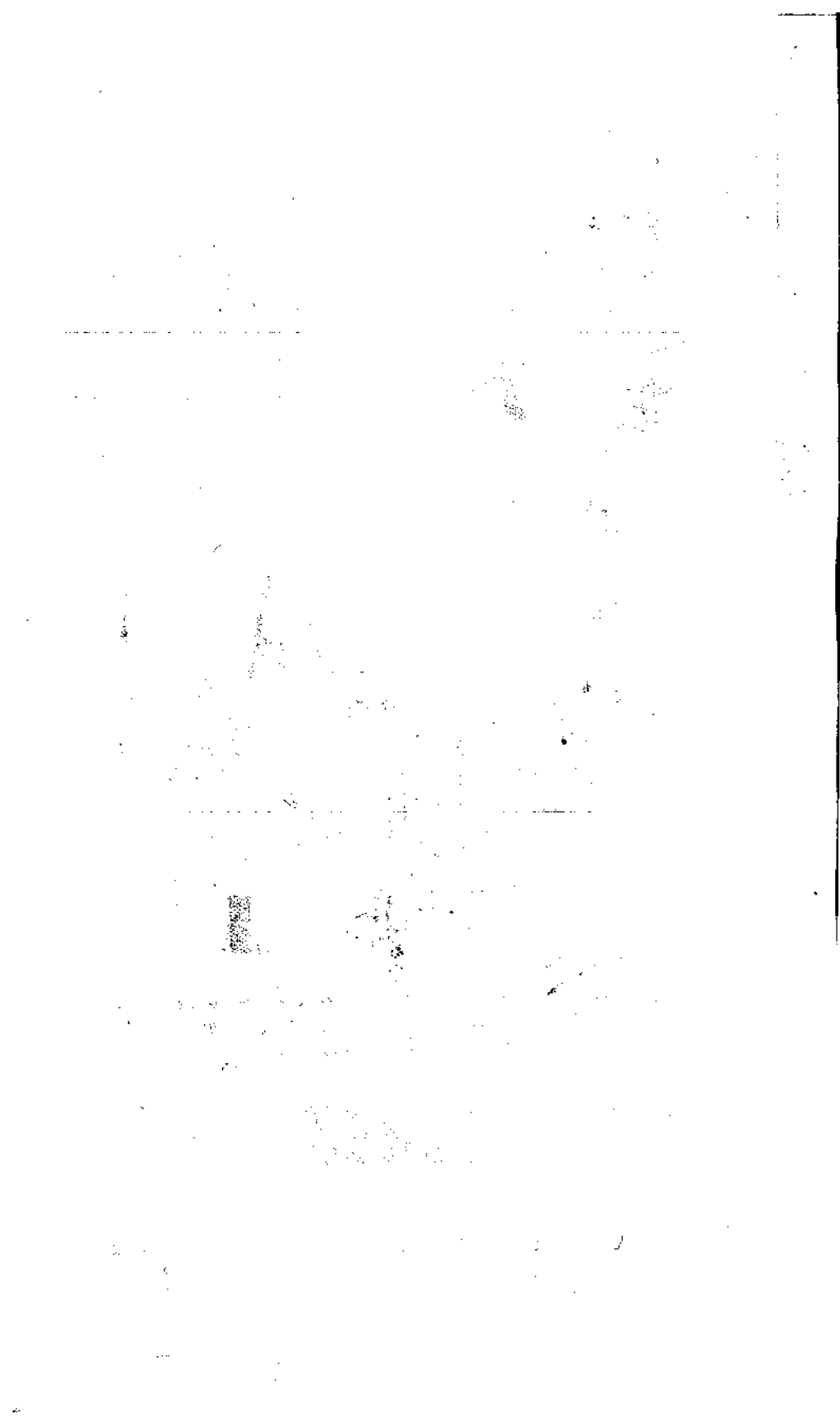
Redwood Street to University Parkway

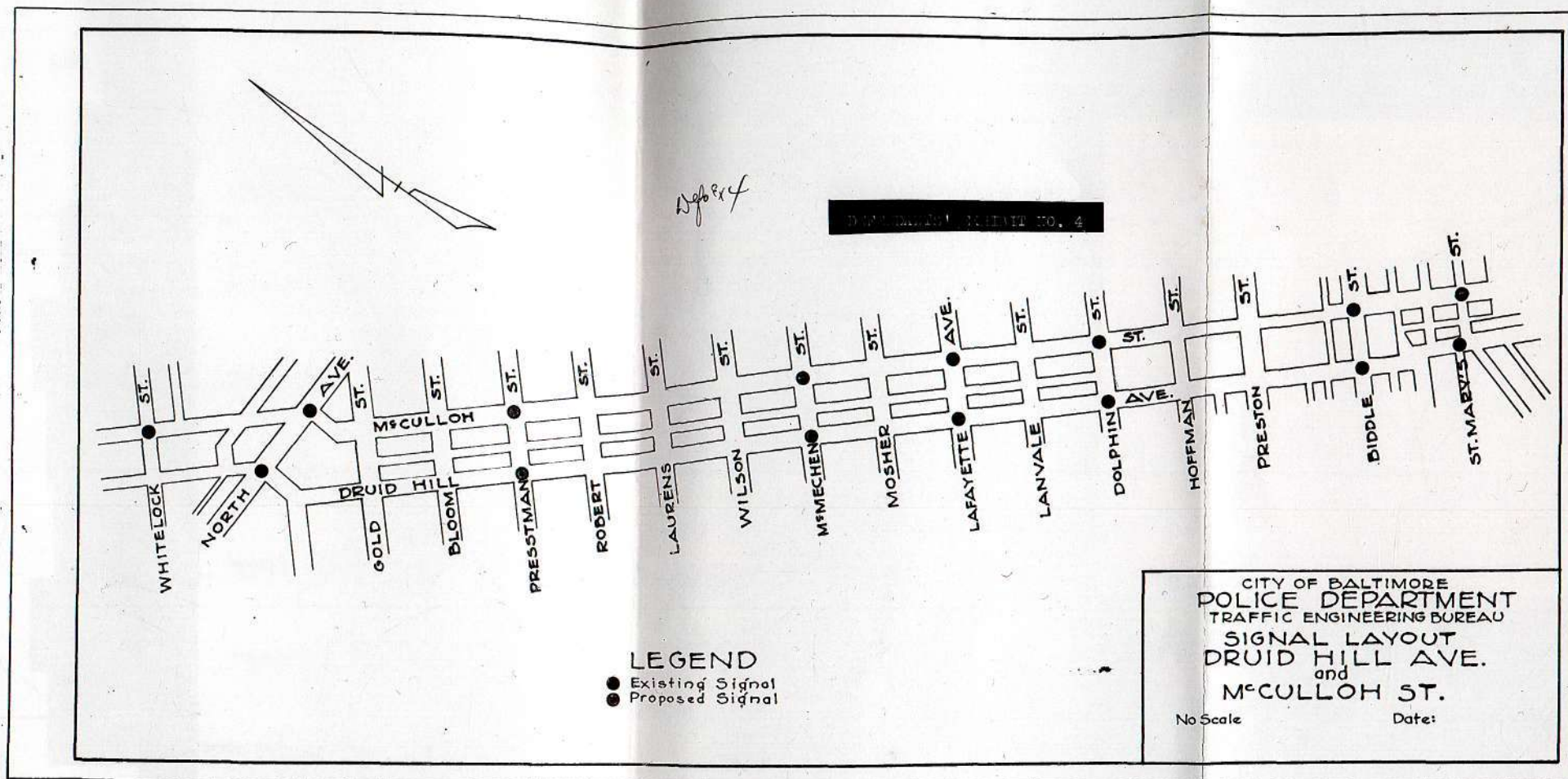
"BEFORE" June 22, 1946 to June 21, 1947	"AFTER" June 22, 1947 to June 18, 1948			
	Before	After	Increase	De-crease %
Total number of accidents.....	189	154	35	17.5
Accidents involving personal injury.....	66	44	22	33.3
Accidents involving property damage....	123	110	13	10.5
Intersectional accidents	143	121	22	15.3
Inter-block accidents	46	33	13	28.2
Accidents involving turning movements..	30	29	1	3.3
Accidents involving pedestrians.....	25	17	8	32.0
Rear-end accidents	20	10	10	50.0
Accidents involving parked cars.....	10	5	5	50.0

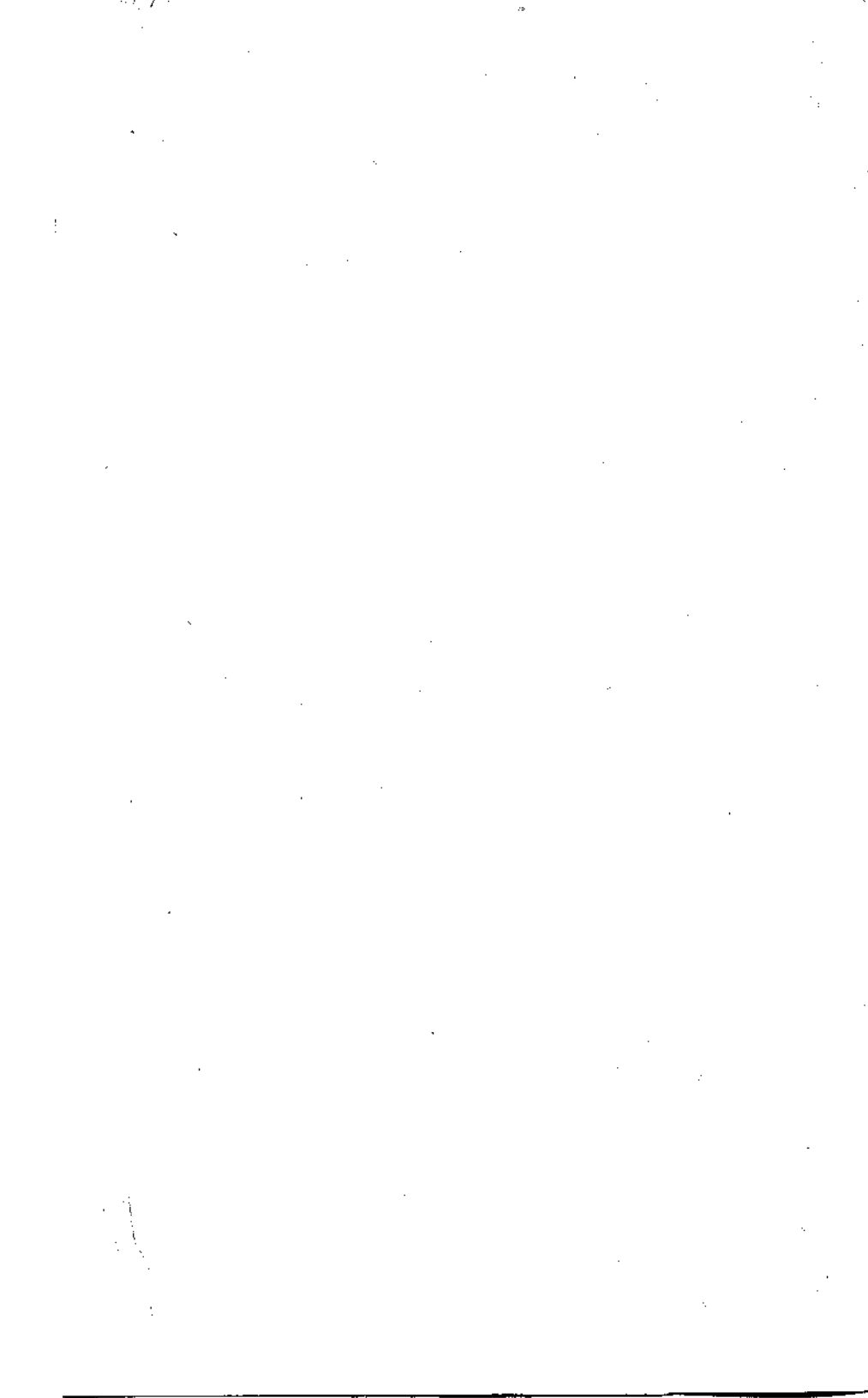
1st six months of 1946 83

1st six months of 1948 —77

6 Decrease (7.2%)







PX 5

PLANNING'S MASTER NO. 5

24 HOUR COUNT

LEGEND

- = Traffic Volume Before Conversion
 — = Traffic Volume Increase After Conversion

ST PAUL ST

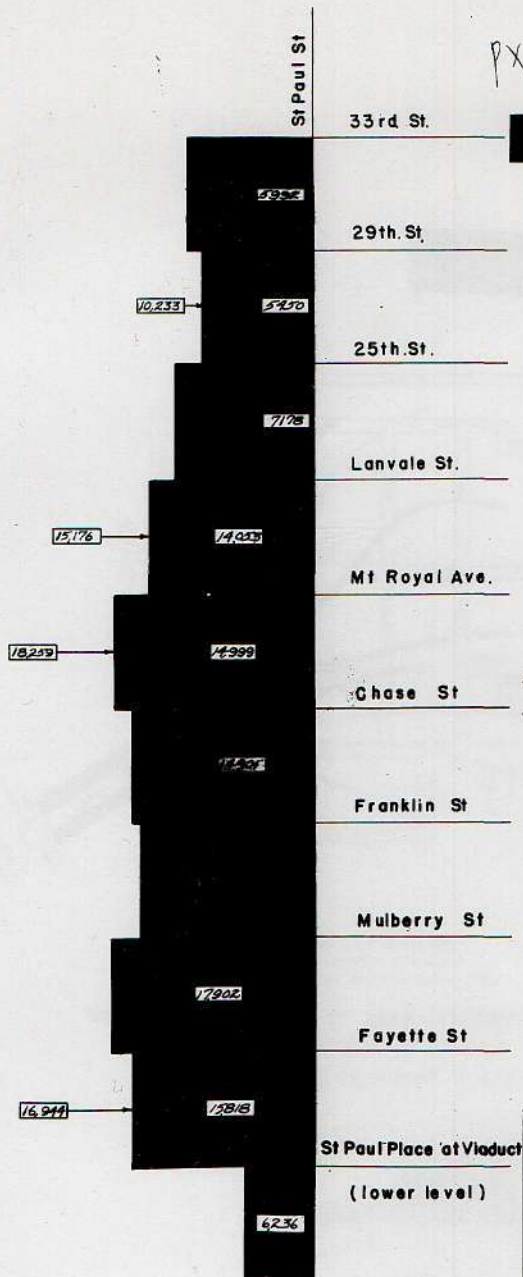
**BEFORE & AFTER VOLUME
STUDY**

BEFORE- MAY 7, 1947

AFTER- OCT 27, 1947

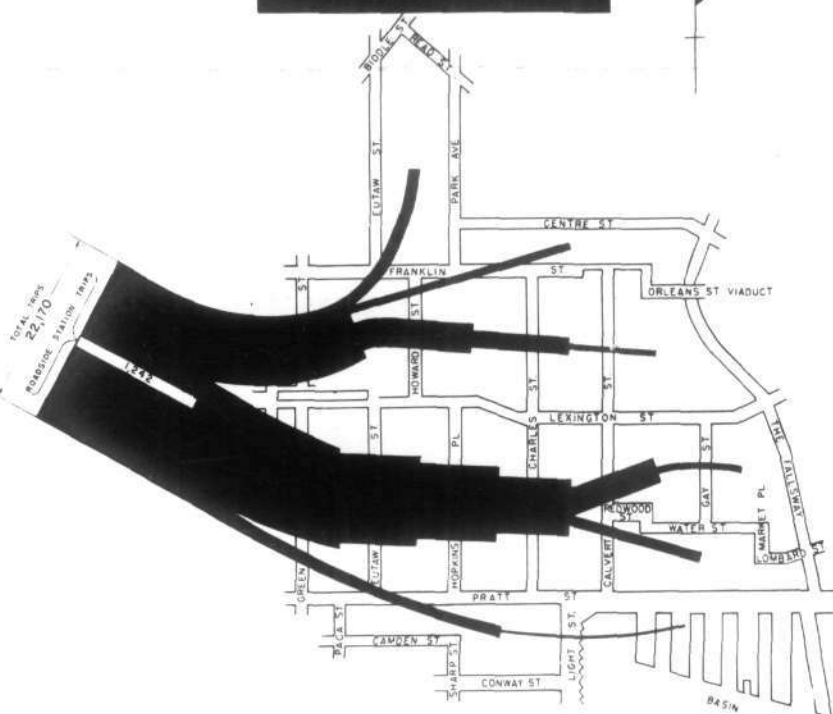
ONE-WAY OPERATION JUNE 22, 47

SCALE- 1"=2,000 VEHICLES



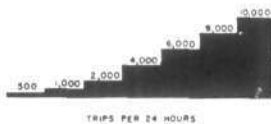


UNCLASSIFIED SECRET NO. 6
(Plate 11)

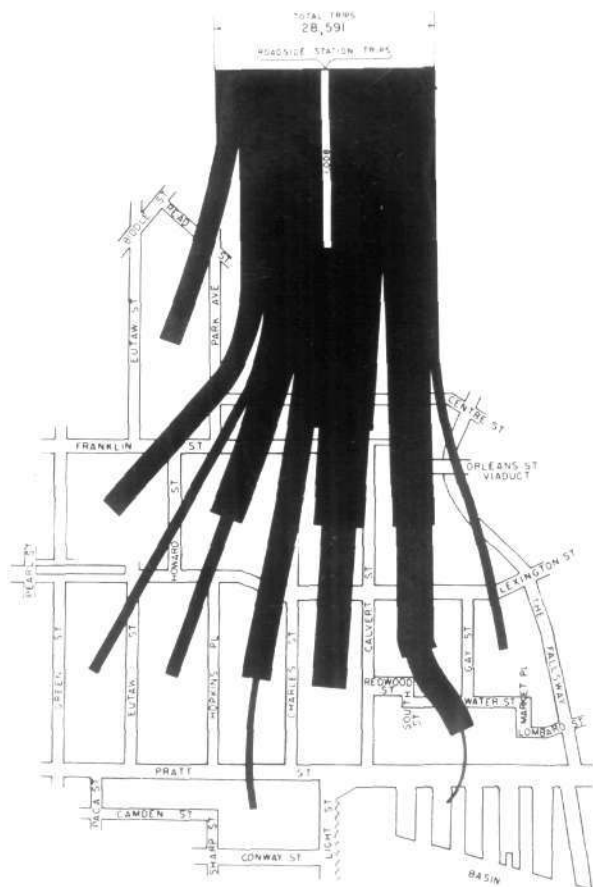


STATE OF MARYLAND
TRANSPORTATION STUDY
BALTIMORE METROPOLITAN AREA

TRIPS BETWEEN ZONES OF AREA 0 (DOWNTOWN AREA) AND
AREA 3 AND ROADSIDE STATIONS 20, 21, 22 & 23
ALL TYPES OF MOTOR VEHICLES



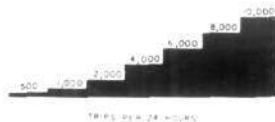




DEPENDANTS' EXHIBIT NO. 6
(Plate 13)

STATE OF MARYLAND
TRANSPORTATION STUDY
BALTIMORE METROPOLITAN AREA

TRIPS BETWEEN ZONES OF AREA 0 (DOWNTOWN AREA) AND
AREA 5 AND ROADSIDE STATIONS 1, 26, 27 & 28.
ALL TYPES OF MOTOR VEHICLES





DESIGNATION OF THE PORTION OF THE RECORD,
PROCEEDINGS AND EVIDENCE TO BE CON-
TAINED IN THE RECORD ON APPEAL, AND
AGREEMENT THERETO BY THE SOLICI-
TORS FOR THE RESPECTIVE PARTIES

(Filed 12th April, 1949)

The following shall be included in the record in their entirety:

- 1—Bill of Complaint.
- 2—Demurrer to the Bill of Complaint.
- 3—Order of Court overruling Demurrer.
- 4—Amended Bill of Complaint & Order.
- 5—Answer to Amended Bill of Complaint.
- 6—Testimony taken in Open Court—Vols. 1 & 2.
Plaintiffs' Exhibits 2, 3, 4, 5, 6, 7, 8, 9, 10 p. 19,
11, 23, 24.
Defendants' Exhibits 1, 2, 3, 4, 5, and plates 10,
11, 12, 13 of Defendants' Exhibit 6.
- 7—Opinion.
- 8—Decree.
- 9—Order for Appeal.
- 10—Designation of Record.

The following shall be omitted from the record, and it is agreed that their purport and substance are as follows:

Plaintiffs' Exhibit No. 1 being a report entitled "Analysis of Traffic Conditions and present and Post-War Requirements" the purport and substance of the relevant material being contained on pages 5, 6 and 7 of the reporter's transcript of testimony in this case.

Plaintiffs' Exhibit No. 12 being a letter addressed to the City Council of Baltimore City by the Mayor of

Baltimore City, the purport and substance of the relevant material being contained on pages 198, 199, and 200 of the reporter's transcript of testimony in this case.

Plaintiffs' Exhibits 13, 14, 15, 16, 17, 18, 19, 20, 21, which are the tax receipts of Clarence Mitchell, Thomas J. Smith, Lillie M. Jackson, Garland Chissell and Augusta F. Chissell, the plaintiffs' in this suit and which show the following figures:

<i>Exhibit No.</i>	<i>Year</i>	<i>Name</i>	<i>Assessment</i>	<i>Tax</i>	<i>Property</i>
13	1947	C. M. Mitchell	\$3780.00	\$128.17	1324 Druid Hill Avenue
14	1948	" " "	5080.00	162.93	" "
15	1947	Thomas J. Smith	4100.00	137.46	1729 McCulloh Street
16	1947	Lillie M. Jackson	4300.00	141.22	1216 Druid Hill Avenue
17	1948	" " "	6040.00	200.86	1627 " "
18	1946	Garland Chissell	4540.00	159.29	1534 " "
19	1947	" "	5040.00	173.22	" "
20	1947	Augusta Chissell	3780.00	128.17	1326 "
21	1948	" "	5080.00	162.93	" "

Plaintiffs' Exhibit 22 being Order No. 42685 of October 9, 1946, of the Public Service Commission of Maryland, the purport and substance of the relevant material being contained on page 327 of the reporter's transcript of testimony in this case.

Plaintiffs' Exhibit 25 being Rule 41 of the Rules and Regulations of the Department of Recreation and Parks of the City of Baltimore 1948 the purport and substance of the relevant material being contained on pages 366 and 367 of the reporter's transcript of testimony in this case.

It is agreed and stipulated by and between counsel for all parties to this case that the name of Nancy Winkey, a

minor complainant in this suit, was inadvertently omitted from the introductory paragraph of both the original bill of complaint and the amended bill of complaint and that for purposes of this designation her name shall be considered so inserted in both the bills nunc pro tunc.

It is agreed and stipulated by and between counsel for all the parties to this case that a Report to the Commission on City Plan of the City of Baltimore by the Advisory Engineers dated January 29, 1942, page 64 was offered in evidence by the plaintiffs' but never marked in this case, and the purport and substance of the relevant material being contained on pages 325 and 326 of the reporter's transcript of testimony in this case.

It is also agreed by counsel for all parties that this designation and agreement shall be part of the record in this appeal and shall be one of the papers transferred to the Court of Appeals of Maryland.

DONALD G. MURRAY,

Co-Counsel for the Plaintiffs.

HAMILTON O'DUNNE

